

BRITISH INSTITUTIONS  
OF TO-DAY

*By the Same Author*

OUTLINES OF ENGLISH ECONOMIC HISTORY

Third Edition

A survey of social and industrial development  
up to the year 1947, based on modern research.

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G. BELL AND SONS, LTD.

# BRITISH INSTITUTIONS OF TO-DAY

*By*  
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## PREFACE

THIS little book on Citizenship is intended to serve three purposes:

(1) To give the Sixth Form pupil a clear idea of the public life in which he or she must learn to play a part. A careful description of the machinery of central and local government has therefore been combined with the consideration of such matters as political party, the social services, the working of inter-imperial and international relationships, and the place of voluntary organizations in the State. Hence also the chapter on the public work of women.

(2) To stimulate those form-discussions and exercises in individual research which are often found to be quite as valuable as the set reading-period. Accordingly, the very short book-list is directly related to a varied collection of questions, some of which merely test knowledge of the text, while others require reference either to the classic works on the constitution or to present-day periodicals and year-books, and others again suggest likely subjects for debate.

(3) To interest the general reader who wishes to get below the surface of the constitution and see something of how it really functions. What are the existing powers of the King in relation to his ministers? Is the "New Despotism" a serious danger? To what extent is local government controlled by officials? Earlier constitutional history has for this reason been largely sacrificed, so as to include some answer to questions like these, which in the author's opinion concern more closely the citizen alike of to-day and of to-morrow.

The author wishes also to acknowledge his indebtedness to the following, for their permission to quote passages from the works indicated: to the late Rt. Hon. Lord Hewart and Messrs. Ernest Benn (*The New Despotism*); to Sir Alfred Zimmern and Messrs. Macmillan (*The League of Nations and the Rule of Law*); to Lady Low and Messrs. Ernest Benn (*Sir Sidney Low's Governance of England*); to the late President A. L. Lowell and Messrs. Macmillan (*The Government of England*); to the Oxford University Press (Lord Balfour's Introduction to Bagehot's *English Constitution*); to the Cambridge University Press (Dr. W. I. Jennings' *Cabinet Government*); to Messrs. Macmillan (Dicey's *Law of the Constitution*); to the Editor of *The Times* (leading article of August 12, 1936); to the Clerk of the London County Council (*Twenty-five Years of London Government*); to Political and Economic Planning (article in *Planning*, July 31, 1934); and to the Editor of *Whitaker's Almanack*.

It remains to add that, while this book sets out to be as objective as possible, its author confesses to the belief that British institutions are chiefly worth studying in so far as they develop towards a changeless democratic ideal. νόμος οὐ τοῦτο μέλει, ὅπως ἐν τι γένος ἐν πόλει διαφερόντως εὖ πράξει, ἀλλ' ἐν ὅλῃ τῇ πόλει τοῦτο μηχανᾶται ἐγγενέσθαι.<sup>1</sup>

The present edition has been revised throughout and partly rewritten in the light of post-war conditions. There is an additional chapter on New Trends in Government.

<sup>1</sup> What our institutions aim at is, not the particular well-being of a single class, but the extension of this well-being to the whole community (Plato: *Republic* 419E.).

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# I

## INTRODUCTORY

### §I. "A CONSERVATIVE PEOPLE"

WE are often told that the onlooker sees most of the game. If this is true, then it will not be a waste of time to spend a few minutes examining a couple of the phrases in which foreigners most frequently sum up their impressions of the game of British public life, in which we ourselves are all to some extent among the players. What does the foreigner mean by "conservative"? Not a particular political party, assuredly, but a national habit of mind, which the synonym "preservative" might describe more clearly: there is no country in the modern world where links with the past, however rusty, are so jealously preserved. Some of our institutions have survived from the days of the Heptarchy to adorn the post-war British Commonwealth of Nations; and on the occasion of our last revolution, two and a half centuries ago, the transference of the Crown to William and Mary was justified on the ground that the late King, James II, had "subverted the *ancient* rights and liberties of the people of this Kingdom." Contrast with this the history of the U.S.S.R., which in the course of thirty years has sought to make all things new; of Germany, where the old men can remember four wholly different régimes; and even of France, with the tremendous break at 1789.

This jealously guarded continuity of British history is brought home to us by occasions of ceremonial

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pageantry, much of which would be swept away as being insufferably cumbersome, wasteful, and even ludicrous, if it did not serve to link the present with the past. The accession of a new king, for instance, is nowadays a simple and uncontested matter of fact. Yet it involves the assembling at St. James's Palace of Privy Councillors and "numbers of other principal gentlemen of quality"—a body closely resembling the Witenagemot which nominated the Anglo-Saxon Kings—followed by a meeting of the Privy Council (the Tudor organ of government), at which the new king among other things swears to maintain the Church of Scotland (required by a Scottish statute of 1704), and finally the actual proclamation by a College of Heralds, which was incorporated by the last sovereign of medieval England. As for the solemn and intricate observances of the Coronation itself, suffice it to observe that

Of the ceremonies still in use anywhere in the world for the inauguration of secular dignities, there is none to compare for antiquity with the rite for the Coronation of the Kings of England. Most of its essential elements can be traced back to the Coronation order known by the name of Ethelred II, which was probably used for crowning Harold Godwinsson and William the Conqueror. Many of its very words come down, with no more change than the translation from Latin into English, from the pontifical of Egbert Archbishop of York, who died in 766. (*The Times*, August 12, 1936.)

A coronation occurs only once in a generation, on an average, but other pageants, of a more everyday character, are equally instructive. For those of us who live in London the most obvious is the State opening of Parliament, though the significant part is not the

crowded scene as the royal coach passes between the Palace and Westminster, but the less public spectacle inside the House of Lords. The King takes his place upon the throne; the great officers of State and the judges attend him; the peers, with a handful of bishops, sit in serried ranks upon the red benches before him: only the Commons, with the Speaker and the Prime Minister at their head, stand humbly at the Bar of the House. Thus is reproduced the original "parliamentum" of magnates and officials, to which Edward I and his successors summoned representatives of shire and borough to give their consent and perhaps voice their grievances—but not to confer as equals. The King reads "his" Speech, in which his ministers have carefully outlined their proposals for the new session and for the needs of a democratic state—the formalities have bridged six centuries.

The provinces have no show to compare with this, but the minor ceremonies with which the sheriff is legally obliged to receive the judges at assizes connect us with an even remoter past. For when judges first rode their circuits in the twelfth century, the sheriffs who received them as the King's representatives, shire by shire, had already ruled their shires for a matter of two or three hundred years. Nor does the office of mayor in a typical English borough lack elements of pageantry—the chain of office and the mace-bearers—which recall Latin charters, given perhaps by a Plantagenet.

The continuity of our institutions is a thing of which we may well be proud, but the conservative spirit which retains old ceremonies depends upon something more than antiquarian enthusiasm. It depends upon a formal respect for law, which preserves what has once

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been duly prescribed. It depends also upon our knowledge that such ceremonies, by their common appeal, bind us together, man to man, as well as binding each new generation to those that went before. Finally it depends upon a principle of reverence. The Englishman is by nature deferential, he wants something to look up to: in a democratic age an ancient symbolic institution best fulfils this rôle.

#### §2. "A FREE COUNTRY"

Freedom, even more than conservatism, is characteristic of British institutions. This was true nearly two centuries ago, when Hogarth drew his famous "Calais Gate" to point a contrast between the free-born Englishman and the downtrodden foreigner. At one time, indeed, much of the ceremonial which we have been discussing, from the State opening of Parliament to the kissing of hands by ministers, could find an additional justification in the fact that half the world sought to imitate our august form of government. Parliaments which owed a debt to Westminster (acknowledged or unacknowledged) were the first-fruits of five great revolutions—the American, the French, the South American, the Belgian, and the Italian—all occurring within a hundred years, and after 1870 some approximation to our Cabinet system began to establish itself in almost every European state.

To-day the position is different. Nazism and Fascism, which dominated political thinking in the decade before the war of 1939, have indeed been swept away; but this does not necessarily mean a general return to government by Cabinets dependent upon any genuinely democratic parliamentary system. In Soviet



Russia the world sees a pattern of State, immensely strong and commanding the absolute loyalty of its subjects, which has evolved out of the Revolution of 1917 into political forms and by political methods which, though employing the phrases of democracy, have little in common with its realities as we understand them. In Eastern and Central Europe and elsewhere other States emerging from the chaos of war, victors and vanquished alike, find themselves powerfully attracted by the success of the great Russian experiment, and are at best uncertain whether democracy in the British sense of the word is compatible with the need for quick and resolute decisions in a period of reconstruction.

It is not, be it noted, the existence of our freedom which is denied, but its value. Indeed, a French writer who was Hogarth's contemporary already saw that freedom was not the only possible *raison d'être* of the State.

The monarchies with which we are familiar have not, like those of which we have just been talking [i.e. England], liberty as their direct object: they aim only at the glorification of the citizens, the State, the prince.<sup>1</sup>

If we substitute "prestige" for "glory," this would be a very fair description of the motive that lies behind many of the activities of Nazism and Fascism in more recent times. The glorification motive may have perished finally with Hitler and Mussolini and their Japanese counterparts: but the world which they so nearly conquered still finds liberty a weaker motive than the pursuit of national security. There is also an economic motive to be reckoned with. The State

<sup>1</sup> Montesquieu: *De l'Esprit des Loix* XI, 7.

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whose aim is the liberty of the citizen too often provides chiefly the liberty to starve, whereas the new kind of State, which commands the whole of his activities from the cradle to the grave, does in return profess to give him a means of livelihood. Unemployment is a problem which our form of government has not effectively tackled, but which it must tackle if it is to survive. Meanwhile, let us see just what the foreigner means when, perhaps with a shrug of the shoulders, he contrasts our country with his as above all "a free country."

To the ordinary man under any government the State means chiefly a network of laws and regulations which he has to obey. Under the conditions of modern life these are always increasing—witness the Highway Code. In matters of that kind rules are as numerous and stringent in Britain as in any other country: where, we may ask, is the evidence of freedom? The answer lies in the Rule of Law—a name given to one of the principles that lie at the very root of our constitutional system. In Britain there is no such thing as arbitrary power—every action by which the Government governs us must be authorized by law, either by statute law passed by Parliament or by the ancient principles of common law, which have been recognized for many hundreds of years. The test is that all Government actions can be appealed against in the ordinary law courts, where judges, over whom the Government has no influence, will decide whether or not they are thus authorized. This remains the general rule, though in recent years there have been encroachments upon it, which have excited some alarm.<sup>1</sup>

Generally speaking, then, the British citizen is free

<sup>1</sup> See below, pp. 81-83.

to do as he likes, so long as he does not break any definite law. But our freedom also depends upon certain less easily defined traditions of liberty. Two of these may be specified because they run directly counter to the ideas which are fostered by some other forms of government. One is our inherent distrust of officials and officialdom: there is probably no civilized country where the official as such receives so little respect as in Britain, and certainly no place where such a jealous eye is kept upon the limits of his powers. Consider, for instance, the indignation which is so quickly aroused in Parliament if an over-zealous police officer proves to have arrested an innocent person by mistake. The other and larger tradition, of which we shall have more to say later, is our national habit of tolerating the opinions of a minority with which we happen to disagree. This habit, measured by an absolute standard, has probably lost some of its force in recent years—but not by comparison with the intolerance of our Continental neighbours, faced as they still are with circumstances of greater stress.

But behind all this there remains the fact that we are a free people primarily because we are a self-governing people. As it is the main object of this book to try to explain how this self-government works, we need say little about it now. But it is important to remember that the British Parliament, freely elected by the people, itself has freedom to do anything. The Parliaments of many other countries, like the United States Congress, have only restricted powers: there are certain constitutional laws, or certain treaties among the different races out of which the country is formed, which Parliament cannot alter. Thus in pre-war France a special session had to be held at Versailles to alter any article in the

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Constitution of 1875—even a matter of taxation. But our Parliament can alter the succession to the throne or reverse the whole economic system of the country by the same processes and in the same space of time as it takes to extend the school-leaving age or alter the duty on tea.

This is all-important because it is the people that decides what Parliament shall or shall not do. Therefore the Sovereignty of Parliament, as it is called, implies a people that is its own sovereign master and therefore a people that is free.

## II

### THE VOTER AND HIS VOTE

#### §1. HISTORY OF THE RIGHT TO VOTE

WE saw in the last chapter that Britain is a free country chiefly because every citizen shares in the control of the government by means of the vote, which goes to choose a Member of Parliament for his or her neighbourhood. This right to vote, or franchise, was not always the possession of every citizen. Indeed, down to 1832, when the modern history of the franchise may be said to begin, the vote in rural England was restricted entirely to owners of land, while in those towns which returned M.P.'s—the parliamentary boroughs—there were all kinds of different systems of voting, the majority of which reserved the privilege for a few special inhabitants, such as the mayor and corporation. The justification for this system was that it gave representation to the land (that is to say, to agriculture, then the most important national interest) and to the classes (because the variety of franchise in the boroughs meant that every class, even the poorest, predominated somewhere).

Since 1832, however, the franchise has been based on the idea of representing individuals rather than the ancient "commons (communities) of the realm." That is why the limit fixed by the Great Reform Act in that year lasted such a short time. The vote had been given to the middle class—ten-pound householders in the boroughs and substantial tenant-farmers in the country districts: why should a house that cost £10 a year or a

farm of £50 (or less if the lease was for a long term of years) confer the franchise and a £9 house or a £49 farm confer nothing? Hence the Acts of 1867 and 1884, the former of which gave the vote to all householders in boroughs, irrespective of the value of their houses, and to lodgers in boroughs, provided that their lodgings cost them £10 a year unfurnished. The latter conferred precisely the same franchises upon householders and lodgers in country districts. Thus by 1884 England—and, indeed, the whole United Kingdom of Great Britain and Ireland, to every part of which these measures applied—had what passed for a democratic system. But it is important to notice that the poorer lodgers, sons residing in their parents' houses, and the numerous class of persons who did not remain in one place for the twelve months required to get their names placed on the official register of voters, still had no power to vote.

So far as the right to vote is concerned, this remained the situation up to the war of 1914-18—in a population (for the United Kingdom) that mounted towards 48,000,000, about two-thirds of the adult males were able to vote, and of the adult females none. But there was another type of parliamentary reform which went on at the same time as that of which we have been talking, namely, the redistribution of seats. Before 1832 there was a strict separation between county seats, of which every county had two, and the far more numerous borough seats (two to each borough), the bulk of which were attached to ancient towns in the south of England, many of them ludicrously small in comparison with the new industrial centres in the north. The Reform of 1832 was therefore accompanied by redistribution: the smallest boroughs lost their seats,

and these were given to the rising towns and to the more populous counties. But for another fifty years there remained some traces of the old system—it was a greater honour to represent a county as “knight of the shire” than to represent a borough, however great; and many ancient boroughs retained two members although their population was very much smaller than that of a new town with only one. This was remedied by the Redistribution Act of 1885, which abolished all these ancient survivals and divided the whole country up into constituencies of equal population. The big towns were carved up into districts, each returning one member, the counties into divisions, likewise returning one member each. The only exception was those boroughs which had always returned two members and happened to have the population which entitled them still to return two: in those places, and those places only, each voter still has a double vote.

We are now in a position to state what happens at the present day. The important Representation of the People Act of 1918 made residence for six months the sole necessary qualification for a vote (manhood suffrage at last), and included women above the age of thirty on practically the same terms as men. In 1928 the movement towards universal suffrage was completed by the inclusion of women at the age of twenty-one on exactly the same conditions as men. An older type of qualification for an additional vote also survives, namely the occupation of business premises to the value of £10 *per annum*; but this vote cannot be used together with a vote based on residence in the same constituency. Thus lunatics and peers of the realm, the latter having their own House of Parliament, are

virtually the only classes now excluded from the franchise.

The redistribution of seats must obviously be continued from time to time, as the tide of population in particular areas rises and falls. In 1945 Parliament took the more drastic step of subdividing the most populous constituencies so as to raise the total number of seats from 625 to 640. An attack had previously been made upon another obstacle to the perfect expression of the popular will, namely, plural voting. In the past it was possible for a rich man to vote in each of several places where he had a residence; to vote also in respect of a business address; and also for a university representative (a dozen M.P.'s are elected by vote of the graduates of Oxford, Cambridge, London, and the provincial universities respectively). This plural voting was restricted in 1918 to a maximum of two votes—one acquired by residence, the other for a business address or membership of a university.

## §2. THE MACHINERY OF ELECTION

Having seen how the election, from being the direct concern of a small minority, has become the business of the whole nation, we may now consider what actually happens at an election. The scene is familiar enough to most of us, but we may perhaps recall it in the words of a writer who looks back with regret to the old days, when candidates, voters, and rival mobs confronted each other in public, first at the hustings, where the candidates made open-air speeches at their nomination, and then at the polling-booth, where (until 1872) votes were publicly recorded. He contrasts the present thus.



The polling lasts only one day and in the great town it is usually a quiet and dull day. The town hall, or an elementary school, or some other public building, has replaced the polling-booth. In the middle of the large bare room the row of sentry-boxes of rough boarding is erected. At an unimpressive table sit the returning officer and his clerks with the tin ballot-boxes in front of them. The elector strolls into the room, gives his name and address to one of the officials, receives a numbered slip of paper with the names of the candidates, takes it to one of the deal shanties to affix his cross, comes back with it folded, drops it through a slit in the tin box, and goes out. That is all: and to the voter it sometimes seems too little.<sup>1</sup>

The atmosphere of an election is not always so unexciting, especially where rival candidates run each other close and local feeling is involved; but tameness is the natural result of the great efforts which are made to eliminate corruption and undue influence upon the elector. Thus on election day the law forbids the hiring of vehicles to convey voters—this is why so much use is made of cars lent gratis by volunteer helpers—and it is even illegal for the candidate to supply supporters with a cockade or ribbon in the party-colours. Not only so, but the law keeps a jealous watch on the candidate's behaviour during the period preceding election day, fixes the number of letters he may address to each elector and the number of committee-rooms where he may assemble his supporters, and requires him to appoint an agent to pay all his bills and to prove, when the election is over, that the candidate's total expenditure has not exceeded a modest sum fixed by Parliament. By this means the wealthy candidate is effectively prevented from

<sup>1</sup> Sir Sidney Low: *Governance of England*, p. 215.

corrupting the voters by gifts at election time, though it is less easy to prevent wealthy supporters from strengthening his chances by lavish expenditure for the public benefit, which may redound to the credit of the candidate they are known to favour. But on the whole the secrecy of the ballot operates to prevent either a policy of expenditure or (much rarer) of intimidation on behalf of a candidate from having any decisive effect on the issue.

The election period may be said to begin with the publication of the notice that the existing Parliament is about to be dissolved. Under the Parliament Act of 1911 this must happen once every five years, but it may happen whenever the Prime Minister of the day chooses to advise the King to order a dissolution. A writ is then sent from the Crown Office in London, ordering the returning officer, who will usually be the sheriff of the county or the mayor of the borough, to return a member or members to the new Parliament. The writ runs thus:

George the Sixth by the grace of God, etc., to ——— Greeting. Whereas by the advice of Our Council We have ordered a Parliament to be holden at Westminster on the ——— day of ——— next, We command you that, notice of the time and place of election being first duly given, you do cause election to be made according to law of ——— member(s) to serve in Parliament for ———. And that you do cause the name of such member when so elected, whether he be present or absent, to be certified to Us in Our Chancery, without delay.

These returning officers then appoint a day for nominations in each constituency (the area electing a member), when the names of candidates must be

submitted, together with the signatures of eight supporters and a deposit of £150, which is forfeited by any candidate who receives less than one-eighth of the votes cast. If, as happens in about one constituency in ten, there is only one nomination, that candidate is declared duly elected: otherwise a day is appointed for voting—the same for the whole country.

Meanwhile each candidate is busy commending himself to his constituency. There are three recognized methods of doing this. One is the election address—a printed leaflet in which the candidate expresses his views on the political questions of the day and explains his qualifications for acting as the representative of the people he addresses: every elector receives this through the post. Then there are casual contacts established by the use of posters—which, especially if they contain clever cartoons, attract the eye of many voters who would not bother to read the address—and by canvassing. The candidate himself will tour every corner of the constituency by car, talking to all and sundry, while his supporters go from house to house, arguing his case. Lastly, there is the public meeting. Every hall and schoolroom is booked up at election time, and the police are often kept very busy preserving order in the vicinity of the meetings of an unpopular candidate. But although these meetings are attended mainly by those who would vote for him in any case, the heckling by opponents, who come in order to pose awkward questions, gives a candidate a good chance of proving his mettle. Moreover, he may increase his chances by bringing in leading politicians from outside the constituency to address these meetings on his behalf.

Of election day itself we have already seen something. Suffice it to add that the polling stations are

usually open all day (8 a.m. to 8 p.m.) so as to give the busiest workers a chance to record their votes, and that the boxes are then sealed up and conveyed to a central station, where their contents are carefully counted under the eye of the returning officer and the candidates with their agents. There is great competition to produce the earliest result, especially in these days of wireless bulletins. Most of the big towns make their announcement in the course of the night following election day, but rural constituencies, where the boxes have often to be conveyed long distances under guard, are not ready to do so until nearly twenty-four hours after the close of the poll. The scene ends with the successful candidate addressing the people from the town-hall balcony, his agent and canvassers wreathed in smiles, and a rather shorter and less delighted utterance from his defeated rival or rivals.

We have confined our attention to the procedure at a General Election. This may be a convenient place to add that, when a member dies or otherwise vacates his seat during a Parliament, he is replaced by a By-election. The procedure is much the same, except that more interest is generally taken by the public (and the newspapers) outside the constituency concerned, because the result may be held to indicate whether the Government is keeping or losing favour, according as its supporter is, or is not, returned.

### §3. THE FUNCTION OF PARTY

In all probability the reader has already noticed a striking omission in our account of elections and electioneering—nothing has been said about the parties, one of which nearly every candidate claims

to represent. For although a few M.P.'s call themselves Independents, ninety-eight per cent (the figure is meant literally) belong to one or another of the great national parties, pre-eminently Conservative and Labour. One reason why this is so appears if we ask how candidates are chosen. In some instances they are local men, who have distinguished themselves in local affairs as town councillors and so forth, and decide, later on in life, to stand for Parliament. But the man who has served the locality is usually too attached to it by habit to aspire to a "seat" (and a perhaps uncomfortable and certainly expensive place of residence) at Westminster: he leaves national politics to the ambitious younger man. The selection of a non-local candidate accordingly falls into the hands of the local political organization, which inevitably takes the shape of a branch of a national party, able to apply to headquarters for advice about a suitable person.

Beyond this, however, the party has three functions in connection with an election. Firstly, it keeps political feeling strong in the constituency between contests. This brings evil as well as good, because the local association and the agent are often eager to point out ways in which a prospective candidate may profitably "nurse" the constituency, by making large gifts to local charities, athletic clubs, etc. Except at election times these gifts, which often constitute a kind of bribery, are not actually illegal. But, in a country where about one-quarter of the voters do not exercise their right at all, an association which sees to it that new voters are duly placed on the register and organizes meetings and fêtes at which political problems are discussed—mainly from the party point of view, of

course—must be deemed to be on the whole advantageous to the public.

In the second place, it is easy to see that the party organization largely runs the actual election. In some cases the central fund of the party subsidizes candidates, particularly young men of great promise and limited means and those who carry the party flag, so to speak, in constituencies where the other side are overwhelmingly strong. But in any case it is the local committee of the party which provides the candidate with the bulk of his speakers, canvassers, committee men, and unpaid secretaries, without whom a lightning campaign, such as every General Election involves, could not be undertaken at all.

But party has an even larger part to play than this implies. Candidates are not usually elected to Parliament on account of their outstanding personal qualities—it might be better if they were. A man of great national or local celebrity has a “pull”—a successful foreign secretary, for example, or even a well-known county cricketer is thought to add dignity to a constituency: but in the main the candidate is elected as a cog in the party machine. The posters which say “Vote for Jones” may add a list of the political views which he professes to hold or the name of the leader he professes to follow: in either event the principles or the leader means a party, which Jones, if elected, undertakes to support. On the whole, the leader is the more important emblem because a conspicuous individual appeals more easily to the popular imagination: but should the leader break with his party, the individual member may still be expected to follow the latter. In normal circumstances, however, the leader and the programme are indissolubly joined

to the local organization, because the heads of the party closely watch the discussions of the annual conference, at which the local associations of the party meet to air their views. More powerful still, perhaps, is the influence of the game, the feeling—which does much to keep interest in politics alive—that there are two well-defined sides, and that an act of desertion either by leader or by follower is to be regarded, not as an interesting intellectual phenomenon, but as tantamount to treachery.

#### §4. THE MEMBER AND HIS CONSTITUENCY

Party likewise controls the activities of the duly elected member. We shall see more of this question in a later chapter,<sup>1</sup> but the point may at once be raised, how far can the electors control the elected? The great eighteenth-century political thinker and writer, Edmund Burke, when member for Bristol, assured the electors in eloquent language that his duty to them was not to carry out their commands but to put his intellect at their service, by voting in Parliament at his own unfettered discretion. But the problem nowadays is not the same. Candidates offer numerous pledges, spontaneously in their election addresses, less spontaneously at their meetings, when all kinds of interests, from social credit to anti-vivisection, extract promises that they will support appropriate measures. These pledges, however, are not taken very seriously, because the individual M.P. has to obey the party and, once arrived at Westminster, exercises little independent judgment. The rare exception occurs when a great many M.P.'s have pledged

<sup>1</sup> See below, pp. 24 and 35.

their word on the same subject: on such occasions there may be a revolt against the party leaders, and something may really be done to honour the pledge.

What, then, does the constituency get from the member? In the first place, he will be expected to visit it and give some account of what is going on. That is why members receive a free railway pass between London and their constituencies, and why every Friday night (Parliament does not sit on Saturdays) witnesses a considerable exodus to the country. Conversely, his constituents—in the shape of school parties, clubs, and deputations—expect sometimes to visit him, and see the sights of Westminster under his guidance. More important is the ceaseless flow of correspondence. Every voter feels himself entitled to address the member upon any political question in which he happens to be interested. In a time of crisis these letters may arrive by hundreds and are a very valuable indication of public opinion: but woe betide the member who does not at least acknowledge the receipt of every one of these communications!

The voters will also be watching the newspapers to see that their representative is active. If Parliament happens to have under consideration some Bill (such as an electricity scheme or a plan for helping distressed areas) which directly concerns the locality, the Member will be expected to speak on it. If not, it is open to him to prove his alertness by the questions he asks of ministers—above all, if a Government department has committed some blunder in his constituency. Indeed, it is not unknown for members to ask questions with their own reputations in view rather than the answers. But, in the main, the connecting-link is simply this, that a member who ignores the presumed wishes of the



electors too much will not be renominated by the local party organization at the next election. As such renomination is usually looked for, and as it is generally easier to retain an old seat than to capture a new one, this "sanction" is fairly effective.

Subject to this limitation, we must admit that the individual M.P. has nowadays a somewhat passive rôle to play in the working of the great parliamentary machine, the motive-power of which is party.

### III

## THE HOUSES OF PARLIAMENT

### §I. HISTORICAL

IN the twentieth century, a casual reference to "Parliament" may fairly safely be assumed to mean the House of Commons: yet Parliament originally meant the House of Lords. Several indications of this remain, such as the fact that the royal assent to Acts of Parliament is declared in the Lords, and not in the Commons, and the practice by which the clerk of the House of Lords is still designated "Clerk of Parliaments." It was not until the reign of Edward VI that the Commons began to hold their discussions in official quarters within the Palace of Westminster or to record them in official journals; and the typical medieval member was a person who shrank from public life, and after reluctantly attending a single session which lasted only a few weeks would insist that it was someone else's turn to serve, if a Parliament were to be summoned next year. He and his fellows, through the mouth of their Speaker, granted taxation and promoted Bills, but the real power rested with the magnates. Their House, in contrast, though the numbers were still small, was already assuming something like its modern form—lords spiritual, which meant archbishops, bishops, and mitred abbots, and lords temporal, including princes of the blood royal, the heirs of those barons whom Edward I had summoned in 1295, and new peers created by royal letters patent.

Under the Tudors and Stuarts the Commons gained in relative importance. They shared the general outlook of the Tudor sovereigns, assisted their policy (especially the reformation of religion), and acquired in consequence greater dignity and weight. In Elizabeth's reign Privy Councillors began to contest seats and regular "parliament-men"—M.P.'s who sat in several successive parliaments—made their appearance. The unwisdom of the Stuarts, on the other hand, gave the Commons the chance to lead the national resistance—under Cromwell the House of Lords was even for a time abolished—and the prime result of the Revolution of 1688, in which the struggle terminated, was to make the Commons the visible masters of the State. We say "visible" because, although public business was henceforth transacted in the Lower rather than the Upper House, individual peers controlled so many of the borough seats by their wealth that, up to the passage of the 1832 Reform Act, they exercised an invisible but decisive influence over the deliberations of the apparently more powerful Commons.

The two centuries following the "Glorious Revolution" saw Parliament in its heyday of power. This was the period when the dogma of the Sovereignty of Parliament had most meaning. It had triumphed over the Crown, and its authority was but rarely challenged by the people. Sir William Blackstone, the representative lawyer of the period, amplifies the theme in the measured language of his day: Parliament, he says,

hath sovereign and uncontrollable authority in the making, confirming, enlarging, restraining, abrogating, repealing, reviving, and expounding of laws, concerning matters of all possible denominations, ecclesiastical or temporal, civil, military, maritime, or criminal: this being

the place where that absolute despotic power, which must in all governments reside somewhere, is entrusted by the constitution of these kingdoms.<sup>1</sup>

In 1832 the balance of power passed definitely from the Lords to the Commons, but within fifty years of that date the practical authority of Parliament as a whole began to wane—a process which still continues.

One cause of this has been the growth of a new custom by which the Cabinet, if defeated in the House of Commons on an important question, instead of resigning holds a General Election. In the days of Lord Palmerston it commonly happened that the House exercised its power by procuring a change of ministry: but nowadays the knowledge that to attempt a change will involve a General Election, with all its risk and expense to the individual member, constrains the ministerial party to obey the ministers. Another, perhaps greater, change is due to the vastly increased pressure of business. In the days of Lord Palmerston Parliament did well if it passed one law of first-rate importance in a session: consequently there was time for every private member to express his views as often as he liked. Indeed, the Speaker, that august official who presides over the debates and rules the House under its Standing Orders, had then no power to limit what was said in "the best club in the world." The modern thirst for legislation has changed all this. Time is carefully portioned out at the beginning of each session, and the period of discussion for any particular Bill can be cut short under the Closure system, first instituted in 1881. This means that under the new Standing Orders debate can be stopped even in the middle of a speech, a vote taken, and the next business (e.g. another clause of the Bill under consideration)

<sup>1</sup> Commentaries on the Laws of England (1765), I, p. 160.

proceeded with. Even so, some Government Bills get crowded out, while the proposals of private members stand practically no chance of being enacted.

Thus the powers of the Commons are not so great as they seem. On the other side, it is important to notice that, in comparison with the powers of the Lords, they have increased. This is the effect of the Parliament Act of 1911, passed after a controversy of the bitterness and magnitude which might be expected in the case of a constitutional change greater than any made since the revolutionary era of 1688-9. After a long period of quiescence the House of Lords was aroused by the vigorous legislation of a Liberal government which came into office in 1905: its measures were rejected, and even the Budget, with which the Lords did not customarily interfere, was voted down. To render such work impossible in future, the Parliament Act provided that finance Bills automatically, and any other Bill which was enacted by the Commons three times over in a period of not less than two years, should become law irrespective of the Lords' approval or disapproval. An important limitation of this new power was involved in another clause, which said that Parliament must be dissolved every five (instead of every seven) years, for a Bill which passes the House of Commons less than two years before an election is due can still be blocked by the Lords until the electors have a chance to record their verdict on it.

In practice, however, the Lords, at any rate since 1914, have not actually fought measures to the bitter end. That may help to explain why proposals for "ending or mending" their House, which were rife in 1911, have made no progress. A Bill for the latter purpose was last brought up in 1927, and proved a

hopeless failure. The Upper House consists of 2 arch-bishops, 24 bishops (London, Winchester, Durham, and the next in seniority of appointment), 7 law lords (created barons for life under a special statute), and about 750 hereditary peers (including 25 elected every Parliament to represent the peerage of Scotland and a diminishing number of Irish peers, elected before 1922 to serve for life). The general character of the peerage is governed by two facts—its regular replenishment by the Honours List, in which some new creations are usually announced twice a year; and the very small proportion of titles which date back beyond the lavish administrations of the Younger Pitt (1783–1806). The House therefore represents property and—especially of late years—public service rather than blue blood. As for the work it does, two useful functions may be pointed out. To Cabinet Ministers, of whom a minimum of four sit there, it gives more leisure than life in the Commons would for their extra-parliamentary duties; and the Lords' debates, though usually dull and sometimes futile, enable some problems to be ventilated—especially non-party questions—for which the House of Commons cannot spare time. The Upper House is said to be at its best in handling imperial issues.

In 1947 the Labour Government, fearing that the Lords might some day reject a contentious measure of nationalization, resolved to restrict their veto to *one* year on Bills which the Commons had passed *twice*.

## §2. CONTROL OF THE PUBLIC PURSE

The main original duty of the members of the House of Commons was to vote taxes to the King:

the taxes, in his view, would be forthcoming more easily if representatives of the "communities" of the realm had agreed to them beforehand. Assenting to taxation is still one of their main functions, as year by year the King's ministers bring before the House the requirements of the different services. But it is important to notice that money is granted only in accordance with those stated requirements, for a Standing Order of the House of Commons prescribes that no sum of public money can be voted for any purpose, however small and casual, except on the proposal of a minister of the Crown. This prevents the frittering away of funds upon local objects, which might gratify the constituents of particular members and to which other members might hesitate not to accede, or even upon national objects of a generous but imprudent description.

Before March 31—the day on which the Government's financial year ends—the requirements of each Department for the following year are laid before the House as the Estimates. The four main groups are Navy, Army, Air Force, and Civil Service, together with smaller sums needed for the machinery which collects the revenue, such as the Customs Houses at the ports. They are then discussed in the Committee of Supply, which is a Committee of the whole House, attended by every member but presided over by the Chairman of Committees, under whose sway criticism is slightly more unfettered than when the Speaker presides with the Mace before him. The committee sits usually once a week, from April to August, and as each Department's requirements come up, members have a chance to criticize (or commend) the work which the Department does. A common form of

procedure is to propose a small, nominal reduction in the salary of the minister at its head.

Thus the Committee of Supply passes a series of Votes, each of which allots precise sums (even to shillings and pence in some cases) for particular services. At the end of the allotted period these are all embodied—together with any Votes which there has not been time to discuss—in the annual Appropriation Bill, which is passed by the Commons and sent up to the Lords, who must approve it (under the provisions of the Parliament Act) within one month. But the final stage is really the audit of the ensuing expenditure by the Auditor and Comptroller General, whose staff scrutinize the work of the Departments day by day, and will eventually certify to the Parliamentary Committee of Public Accounts that the money has actually been spent in accordance with the appropriation.

But the raising of the money is the task of another committee of the whole House, the Committee of Ways and Means, so-called because it used to find “ways and means” of providing each item of supply from the proceeds of a particular tax. This is no longer done, because the proceeds of all taxes are now paid into a single Consolidated Fund at the Bank of England. However, one function of this committee is still to pass a series of resolutions (embodied eventually in the Appropriation Bill referred to above), enabling the Government to draw from the Consolidated Fund the sums agreed to for particular purposes in the Committee of Supply. This is a cumbrous formality, but the other function of the Committee of Ways and Means is much more important, namely, the authorization of new taxes. It is before this committee that the



Chancellor of the Exchequer opens his Budget (the word means a brief-case) in early April, in which he explains how far revenue and expenditure have balanced in the financial year that has just ended, and what changes will be necessary to meet the expenditure of the new financial year. If the Estimates are "up," he may announce a higher rate of income tax, a heavier duty on tea, tariff changes, or the flotation of a Government loan. Thus the Budget speech is usually a long and arduous performance for the Chancellor, and provides material for keen debate, though the alterations which the committee makes in his proposals are likely to be small. The new taxes are eventually embodied in a single Finance Act.

Such is the general outline of the system, though there are of course many special arrangements for bridging the gap between the presentation of the Estimates and Budget and the legal enactment of the proposals they contain. The Departments obtain regular Votes on Account, and a statute of 1913 enables the taxes proposed in the Budget to be collected provisionally for four months on the authority of a resolution. A more important device of the same kind is the Vote of Credit, by which Parliament grants the Government money in case of emergency, such as war or the imminent danger of war. There can be no campaigning without cash, so the need to get a Vote of Credit deters the Government from adopting a bellicose policy which may prove unpopular with Parliament.

Nevertheless, the financial control of Parliament is admittedly imperfect. About one-quarter of the public expenditure is charged permanently upon the Consolidated Fund and does not come up for review annually. This includes the interest and sinking fund on the

National Debt (itself constituting more than a quarter of the whole) and such smaller items as the Civil List which supports the royal family, and the salaries of judges. Conversely, a large part of the revenue—which, however, does not include income tax and tea duty—is likewise levied under permanent Acts of Parliament. This is probably as it should be, since time is limited and some matters, such as the actions of judges, are better left unreviewed. A much more serious matter is the apparent impotence of the House of Commons in face of Government proposals. Standing Orders forbid a private member to increase a vote of supply; the technical difficulties in the way of proposing alternative schemes of taxation are enormous; and the total expenditure nowadays is so vast that only a small part of the field can be covered in the time allotted to discussion of the Estimates. In 1918 a Select Committee reported that in the preceding twenty-five years no single estimate had ever been reduced by direct action of the House of Commons taken on financial grounds.

A rough reproduction of the national balance-sheet, as we may call it, for the financial year 1935-6, which immediately precedes the long period of abnormal military expenditure, may still be of interest:

## RECEIPTS, 1935-6

<i>From Taxes:—</i>					£,000 omitted
Income Tax	..	..	..	..	238,074
Surtax	..	..	..	..	51,020
Estate Duties	..	..	..	..	87,920
Stamps	..	..	..	..	25,800
Excess Profits Duty and Corporation Profits					1,300
Carried fwd.					404,114

## THE HOUSES OF PARLIAMENT

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RECEIPTS, 1935-6 (*continued*)*From Taxes (continued):—*

					£
				Brought fwd.	404,114
Land Tax, etc.	..	..	..	..	785
Customs	..	..	..	..	196,642
Excise	..	..	..	..	106,700
Motor Vehicle Duties (Exchequer share)	..				4,977
<i>Total from Taxes:—</i>					<u>713,218</u>
Post Office (net)	..	..	..	..	11,670
Crown Lands (net)	..	..	..	..	1,360
Sundry Loans	..	..	..	..	4,934
Miscellaneous	..	..	..	..	21,738
<i>Total Ordinary Revenue</i>	..	..	..	..	<u>752,920</u>
Revenue in excess of Chancellor's calculation	..				18,450

## EXPENDITURE, 1935-6

*Consolidated Fund:—*

					£,000 omitted
Debt—Interest, etc.	..	..	..	..	211,534
Debt—Sinking Fund..	..	..	..	..	12,466
Debt—Total	..	..	..	..	224,000
Northern Ireland	..	..	..	..	7,205
Other Services	..	..	..	..	6,775
<i>Total Consolidated Fund Services</i>	..	..	..	..	<u>237,980</u>
Navy	..	..	..	..	64,805
Army	..	..	..	..	44,647
Air Force	..	..	..	..	27,496
Civil Service	..	..	..	..	361,923
Customs and Excise	..	..	..	..	5,628
Inland Revenue	..	..	..	..	7,500
<i>Total Expenditure</i>	..	..	..	..	<u>749,979</u>
Expenditure in excess of estimates	..			..	21,750

## §3. LEGISLATION

The fact that the Parliaments of many countries are termed legislatures or legislative assemblies may remind us that their primary function, in these days when government activity plays such a large part in life, is to pass laws. The larger part of every parliamentary day—or rather evening, for business at Westminster does not begin until 2.30 p.m.—is devoted to the discussion of Bills or to financial business, the results of which will likewise be embodied in a law.

The process of legislation, which is regulated not by statute law but by the Standing Orders of each House, is as follows. Every Bill must be introduced by a member, on whose proposal it is declared to have been read (there is no actual reading and no discussion at this stage): the Bill is then printed and circulated to members. The next stage is the Second Reading, when—if the matter is of importance—a big debate will take place, at the end of which a formal motion that the Bill be read a second time must be carried: otherwise the Bill falls to the ground. If successful so far, it will be referred to a committee, either one of six regular Standing Committees of about fifty Members or—in the case of an increasingly restricted class of very controversial proposals—a committee of the whole House. Committee is the stage for detailed discussion and amendment, as distinct from debate on the principle of the measure, which takes place at the Second Reading and again at the Third Reading, which follows when the Bill has been reported from the committee to the House. Amendment is also possible at the time of reporting, so there are in all five stages, ending with the vote on the Third Reading.

These five stages must then be repeated in the other House, a Bill which originates in the Commons (as most do) being sent "up," and a Bill from the Lords sent "down." If the second House wishes to alter the Bill, its amendments must be considered also in the House where it originated and accepted there: otherwise the Bill (except under the Parliament Act procedure) still falls to the ground. If, however, it is successful at all these points within the limits of a single Session (about a twelvemonth) the royal assent will be declared by commissioners according to ancient ceremonial, and the Bill at last becomes the law of the land.

This description applies to all Public Bills, that is, Bills concerning any general or public interest, but their actual fate depends very largely upon a further sub-division between Government Bills and Bills which private members wish to bring forward. Under the present system the latter are almost always crowded out. One day a week, on an average, is the fraction of parliamentary time set aside for their discussion, which means that only a small selection of Private Members' Bills, chosen by lot, come before the House at all. That selection are discussed on Second Reading but rarely get much further, especially if a Bill happens to be introduced near the end of the session, when the Government appropriates the private members' time in order to rush its own business through. Indeed, the only real profit that results from discussion of these Bills is that sometimes the Government adopts them and either allots additional time, so that they may be passed, or reintroduces them as Government measures in the following session. This is a great weakness of the system, for private members' Bills often embrace

very wise proposals, particularly on non-party subjects: daylight saving is a good example.

If a private supporter of the Government cannot hope to bring forward his own Bills, much less can a member of the Opposition, whose Bills will be automatically crushed by the Government majority. What then is the use of the Opposition in Parliament regarded as a legislative body? The answer is that Standing Orders always provide as much time as possible for criticism of the Government's proposals. They are, almost invariably, strongly challenged both on principle and in detail, which means that the Government spokesman, with his eye on the public outside as well as on his numerically inferior opponents within the House, is compelled either to justify or to amend his schemes. There are few public laws which do not in some way benefit by this.

Lastly, there is a separate class known as Private Bills, promoted by some private interest, such as a railway company seeking powers to buy land. They are usually sponsored by a municipality, corporation, or limited company, but there is nothing (except the high cost) to prevent any citizen from seeking parliamentary powers to do something otherwise illegal with his own land or property. Private Bills receive three readings in the ordinary way, but in their case the vital stage is the Committee, which consists of five members and hears arguments for and against the Bill by specially briefed lawyers (hence the high cost). Once such a Bill has been accepted, as it were judicially, by a Committee in either House—the House of Lords, having more leisure, shares fully in this work—the other stages in both Houses become more or less a formality. It may be added that considerations of time

as well as money make people prefer to get whatever powers they need granted them through a Government Department, such as the Ministry of Health. For the Department will list a number of Provisional Orders for different private objects in a schedule attached to a special type of Private Bill, which, being sponsored in this way, is usually enacted without question.

#### §4. THE PARLIAMENTARY DAY

The Member of Parliament is not always engaged upon the task of legislation, either in the committee rooms or on the floor of the House. If we were seated in one of the galleries of the House of Commons, we should see members continually entering and leaving the chamber, whispering to each other or (with a more important air) to the ministers on the Front Bench, while a few would-be orators, notes in hand, wait to catch the Speaker's eye, that is to say, to be called upon by him to address the not very crowded benches. Government and Opposition members have their place on opposite sides of the House, which they leave from time to time to stream out and in again through the two lobbies, where they are counted to record a vote on each motion (such as the amendments to some Bill) put from the Chair. But before the division, as it is called, is actually taken, bells ring throughout the whole Palace of Westminster, so that numerous members who are not in their places may hurry in to vote, prompted perhaps by their party's Whip.

Moreover, the time of the House is taken up in other ways—sometimes more profitable than detailed discussion of Bills which the Government majority means to force through, however strong the objections.

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One of these is the period of questions, which every day follows immediately upon the assembly of the House of Commons and the reading of prayers by the Speaker's chaplain. Two days' notice must be given: with this restriction any Member may ask any question he likes of any minister with reference to the conduct of his department. As we should expect, the questions are very numerous, but the situation is eased by the practice of circulating printed answers to the majority of them, a verbal answer being given where the matter is of great interest or a member specially asks for it. This system is a most valuable safeguard for the liberty of the subject. To give two examples—a poor boy is unjustly punished by a bench of land-owning magistrates for some poaching offence: the Home Secretary is questioned about it; sympathy is roused; the punishment is remitted. Or a British subject has been unjustly treated abroad and having no money or influence cannot obtain redress: a question is put to the Foreign Secretary; patriots are indignant; the British Consul is immediately ordered to act.

Another valuable activity is general discussion of policy, quite apart from any new law. There are various forms under which such discussions take place: one is for a member to get the Speaker's leave to move the adjournment of the House on a matter of urgent public importance. If a minimum of forty members support him by rising in their places, or the motion is carried by a majority, a general discussion of policy follows the same day at a later hour. In the House of Lords, which has more leisure for this kind of thing, the common form is for the Opposition to move that papers be laid before the House on such



and such a subject, which motion, with House of Lords politeness, is withdrawn when the desired discussion is ended. More generally, we may say that the state of the nation—the trend of foreign policy, for instance, or an increase in unemployment—can be debated at any time by arrangement made between the leaders on both sides of the House.

Such a general debate also takes place automatically at the beginning of each new session, when the King, from the throne in the House of Lords, reads his speech, which is actually a compilation by his ministers, setting forth in very general language their plans for the session. In reply to the King's Speech, the House of Commons votes a loyal address thanking His Majesty, to which Opposition speakers always propose to add expressions of regret that various measures, which they would prefer, are not included in the ministers' plans. This enables much to be said on both sides of the House, though the passing of any amendment proposed by the Opposition would normally mean that the Government must resign.

This brings us to the last, and perhaps the most important, function of the House of Commons—the making of ministries. It is said that nowadays "the two capital realities are the Ministry and the electors," that is, the ministry depends for life and strength upon a majority of supporters in the country at large. In three respects, however, the Commons, so to speak, come in between them. Firstly, they provide a reserve machinery for deposing a ministry. At the present time it is usual for ministers to resign immediately after a General Election has shown that their opponents have a majority in the country, and not otherwise: but if a ministry in such a case refused to resign,

an amendment to the address, a refusal of money supplies, or a direct vote of censure by the House of Commons would be the means employed to extrude them. Secondly, it is in Parliament, and pre-eminently in the Commons, that men prove their fitness as individuals to become ministers. It is still rare for high Cabinet rank to be accorded to anyone, however distinguished, who has not made some reputation there in debate or committee. Lastly, the day-to-day attitude of members towards the Government is a factor which weighs with them at least as much as the opinion of the press: for Members of Parliament are sufficiently close to affairs of State to form sober judgments, and at the same time sufficiently in touch with their various constituencies to know what the country is thinking, so that they are often in a position to act as a real guide to their titular masters, His Majesty's Government.

## IV THE CABINET

### §I. PRIVY COUNCIL AND CABINET

THE history of the Cabinet is the history of a transformation. What had once been a committee of royal advisers, such as was to be found in most of the European monarchies, became a parliamentary party committee discharging nominally the same duties but in practice ruling the country—an arrangement which was for a long time peculiar to Great Britain. The name Cabinet, which implies a meeting in the King's private study or "cabinet," referred originally to nothing more definite than the small body of intimates, whom the later Stuarts were wont to consult in preference to the Privy Council of their predecessors. For the Council had become too large and formal for real discussion to take place at its meetings, and committees of Councillors were the obvious substitute. Then came the Revolution of 1688 and the consequent increase in the power of Parliament, which made it prudent for the foreigner, William III, to make a show at least of admitting to the inner circle of his advisers men whose party connections enabled them to control the Houses in the royal interest. Queen Anne, being a woman, carried the thing a stage further by letting the inner circle decide policy where her predecessor tolerated only advice: though she dismissed them, when they forfeited her rather fickle favour, *before* a General Election was held to show that they had also forfeited the favour of Parliament. Queen Anne also

anticipated modern developments by associating Cabinet membership with the holding of particular offices of State. Nevertheless, the change from royal advisers to ruling committee was so far from completion that she continued to preside at all regular Cabinet meetings.

Broadly speaking, then, the Cabinet, as we know it, began with the Hanoverian dynasty in 1714.

For one thing, the Sovereign ceased to attend its meetings, and was replaced as chairman by a leading minister, whose office approximated more and more to that which we know as the premiership. The Cabinet also became more definitely a party institution, in which every member had to belong to one of the two Houses and to one and the same party in the House; and as a party committee the members must stand or fall together, united in the advice which they gave to the King and united in the responsibility which they all accepted for the political activities of each. Nevertheless we must be careful not to exaggerate: the Crown was not a mere cipher in relation to the Cabinet. Such a leader as Sir Robert Walpole felt himself to be very much the King's servant, dismissible as such; George III's Cabinets more than once contained members of a discordant party, whose presence the King demanded; George IV tried to get the members of a Cabinet to give individual opinions on the merits of Canning's foreign policy, in the vain hope of confronting the minister with the hostility of his colleagues; and William IV once or perhaps twice contemplated the dismissal of a Cabinet which had the support of the House of Commons and the electorate.

Thus the complete theory and practice of Cabinet government, roughly traced in the eighteenth century,

were never really systematized before the reign of Queen Victoria. Under Peel, Disraeli, and Gladstone the system reached a kind of climax: indeed, the classic exposition of its workings is still a chapter in the *Life of Walpole*, written by one of Gladstone's colleagues (Morley) with his master's assistance. Meanwhile, the Privy Council, from which the Cabinet had sprung, continued to increase its unwieldy numbers: in the eighteenth century it had ceased to advise, in the nineteenth the title of Privy Councillor and the prefix "Right Honourable" came to be awarded as a political honour comparable, perhaps, to a baronetcy. The total membership has grown slowly to about 330.

What of twentieth-century history still in the making? Under the pressure of more, and more urgent, business the Cabinet has already undergone great changes. The membership has increased from twelve or less to eighteen or more, and at periods of crisis, including not only the two world wars but even the financial troubles of 1931, it has sacrificed much of its party character in the effort to achieve national solidarity. The Cabinet has also lost much of its informality by the institution (during the first war) of a secretariat, which makes minutes of all its decisions; and in many other respects the Civil Service, in these days when expert knowledge matters so vitally, has acquired control of its nominal masters. (See also Chapter XIV, §1.)

This we shall see more clearly as we study what the Cabinet does. But we must first return to the Privy Council, heir of a great tradition, and remark its three surviving functions. First, it is a source of committees—chief of these the Cabinet, for every member of the Cabinet is admitted by a Privy Councillor's oath of

office, but including also the great Judicial Committee and, since 1905, the vitally important Committee of Imperial Defence. Secondly, there are formal executive meetings of the Council, held by the King in person with the clerk and some three or four other members, which are the proper occasions for the authorization of all kinds of official Orders in Council, ranging from minute instructions under some special statute to the documents whereby Parliament itself is summoned. Thirdly, the Privy Council holds its only full meeting on the occasion of the King's accession, when, after the more crowded assembly at which the Accession Proclamation is ordered, the Privy Councillors remain to hear a declaration from the new Sovereign and to take the Oath of Allegiance, first of all his subjects.

## §2. THE WORK OF A CABINET MINISTER

The term "Cabinet Minister" may remind us that, while the Cabinet is the committee of advisers, the ministry is the name used for a rather different institution, namely, the body of "placemen" or, as we now say, officials, who see that what has been advised upon is actually carried out in the administration of the country. As these are offices of dignity, power, and emolument, the inner circle of advisers, described above, tended from the first to occupy the foremost of them themselves.

To take for example the Labour Cabinet formed by Mr. Attlee in August 1945, we find that it contains the following:

Prime Minister (who is also First Lord of the Treasury and Minister of Defence).

Lord President of the Council.

Foreign Secretary.

Lord Privy Seal.

Chancellor of the Exchequer.

President of the Board of Trade.

Lord Chancellor.

Secretaries of State for Home Affairs, War, Air, the Dominions, the Colonies, India and Burma, and Scotland.

Minister of Labour and National Service.

First Lord of the Admiralty.

Ministers of Fuel and Power, Education, Health, and Agriculture.

But, in addition to these twenty Cabinet Ministers, Mr. Attlee's full Ministry included about fifty other persons, ranging from some fourteen ministers of Cabinet rank, who are heads of Government departments but do not actually sit in Cabinet (Ministers of Food, Works, Pensions, etc.), through a group of about thirty Parliamentary Secretaries or Under-Secretaries, who assist the ministers in their respective departments, to five "political" officials of the Royal Household.

Thus it is true to say that a great many ministers are not members of the Cabinet at all, while a few members of the Cabinet (Lord President and Lord Privy Seal) are not ministers in the sense that they have any very exacting duties to discharge: but the average Cabinet Minister has departmental work as one of his three great responsibilities. The offices vary considerably in dignity from time to time and from holder to holder, but the Secretaryship for Foreign Affairs and the Chancellorship of the Exchequer are for obvious reasons always key-positions. The Presidency of the Council is also a post of distinction, allotted lately to a Deputy Prime Minister, while the Lord High Chancellor, who receives £10,000 a year for his services as

head of the legal system and chairman of the House of Lords, not only has as large a salary as the Prime Minister but takes precedence of him officially by right of tradition. At least three other ministers must either be chosen from, or elevated to, the peerage, so as to represent the Government in the House of Lords, though the old rule by which Secretaries of State above the number of five had to be in the Lords was abolished in 1937. Any Secretaryship of State has usually been coveted more than the title of minister, if only because each of the eight Secretaries derives his position from the ancient office of King's Secretary. But what matters most is the importance of the work in which a particular Department is engaged at the moment.

The actual routine work of any Department is performed, not by the minister in charge, but by a staff of civil servants, whose activities we shall study in a later chapter: what rests with him is the responsibility. All the regular Cabinet offices now carry with them a salary of as much as £5,000 a year, but few of us would readily change places with a man who has to guide the policy of such a many-sided organization as, say, the Home Office or the Ministry of Health, especially when we take into account the average minister's inexperience. For it is safe to say that, whenever a new Cabinet is formed, a clear majority of its members (sometimes nearly every man) are appointed to offices which are wholly new to them. It is a tribute to the industry and force of character of the average minister, as well as to the efficiency of the Civil Service, that the great departments perform their tasks with anything like reasonable success.

Yet that which we have been describing constitutes only one of the three functions of a Cabinet Minister.



The second may be dismissed quite briefly. He owes his rank to the fact that he is a more or less prominent supporter of that political party which for the time being has a majority of supporters in the House of Commons, and which is therefore called upon to "form a government." In all probability his standing with the party has been one of the main inducements to the Prime Minister to give him place. Accordingly, the Cabinet Minister throughout his term of office is expected to be considering what measures will be popular with the party, and to give the party his help by assiduous attendance at Westminster and frequent and effective participation in debate.

Nevertheless, the third function is the vital one. We may rest assured that the new member, whom the summons invites to "a meeting of His Majesty's servants," is aware that the Cabinet, in which is concentrated authority over an Empire, is something more than a colloquing of party chiefs. A rigid custom constrains all members to keep silence about Cabinet discussions and decisions, which rule may only be broken (with permission) when a minister, having quarrelled with his colleagues and resigned office, wishes to explain his conduct to Parliament. The custom is obviously advantageous to the party, which would rapidly disintegrate if the disputes of its leaders were habitually made public, but it finds its legal basis in that Privy Council oath of secrecy, which every Cabinet Minister has sworn. Accordingly, we cannot say much about the informal discussion of public affairs and the more formal business of making decisions, which constitute the weekly task of the Cabinet. But one outstanding feature is the nominal equality of all members, both as regards the right to be

heard and, in case of a division, the voting-power: senior and junior members each count for one and for one only.

The Cabinet may meet anywhere, but the famous Cabinet Room, at 10 Downing Street, and the Prime Minister's Room in the Houses of Parliament are the two usual places. A list of business to be transacted is circulated to members beforehand in the official boxes of state papers which are conveyed to ministers almost daily, wherever they happen to be. There may be some major question of policy ripe for decision, in which case it is likely that a small Cabinet committee (containing three or four of the most influential ministers) has drafted a proposal in advance. A Bill may be submitted, which expert lawyers known as Treasury Counsel have been instructed to put into legal form beforehand, but which must be carefully examined before it goes to Parliament; or, if expenditure on some public object is in the air, there will be a careful memorandum from the Treasury itself. There may also be a discussion of foreign affairs based on reports from our embassies and legations abroad. All in all, it is easy to understand that the weekly meetings of the Cabinet, which are suspended only during the parliamentary recesses (especially the long autumn recess), have often to be supplemented at times of crisis or when the Budget is impending.

### §3. THE PRIME MINISTER

So far as any office in Great Britain can be compared at all with the American Presidency or with Marshal Stalin's position in the U.S.S.R., it is obviously the office of Prime Minister. In the beginning, as we have

seen, he was the person who took charge of Cabinet meetings when they ceased to be attended by the Sovereign; and, since the Cabinet by that time was representative of one party, the person who took charge of the meetings was normally the party chief as well. But the growth of democracy has added a third aspect to the dignity of Prime Minister. Ordinary men and women—most of us, in fact—are appealed to by a person more easily than by a set of principles: at an election we vote for the party that supports So-and-so as leader, and at a crisis we look for a solution, not to the party principles or programme, but to the character of the leader who carries the party with him. This tendency may well be deplorable, but the fact remains that a modern General Election is sometimes hardly more than a demonstration of popular confidence in one man, who is thus nominated Prime Minister, in effect, by the electorate.

The Prime Minister is, of course, actually appointed by the King, whose hand he kisses on accepting office, and of whom he takes leave on resigning. He has an official residence at 10 Downing Street, which was presented to Sir Robert Walpole by George II; and since 1906 he has been placed in the official table of precedence as fourth of the King's un-royal subjects, ranking next after the Archbishops and Lord Chancellor. But his practical authority is still vastly greater than the nominal position suggests.

In the first place, the Prime Minister is the only link between the other ministers and the Sovereign. Apart from the "Cabinet Conclusions," which are drawn up by the Cabinet Secretariat, the King has no knowledge of Cabinet discussions, except what the Prime Minister may choose to tell him. Moreover,

the Prime Minister selects his colleagues and can, if necessary, compel any of them to resign. The fact that his Cabinet has to be a collection of men prominent in the party and the practice of including those who have held Cabinet rank before both limit his choice: but at least he divides the offices at his discretion and decides which of the younger and less known men deserve promotion. And, when he himself resigns office, the Cabinet is automatically dissolved. Hence a vast general power of supervision:

The duties of the Prime Minister, if one may use the expression, surround the Cabinet. He stands in a sense between it and all the other forces in the state with which it may come into contact, and he even stands between it and its own members. Matters of exceptional importance ought to be brought to his attention before they are discussed in the cabinet: and any differences that may arise between any two ministers, or the departments over which they preside, should be submitted to him for decision, subject, of course, to a possible appeal to the cabinet. He is supposed to exercise a general supervision over all the departments. Nothing of moment that relates to the general policy of the government, or that may affect seriously the efficiency of the service, ought to be transacted without his advice.<sup>1</sup>

In the second place, the Premier has vast powers of patronage. All members of the ministry, down to the Second Church Estates Commissioner or the Vice-Chamberlain of the Royal Household, are chosen by him. It is on his recommendation that the King appoints archbishops and bishops, other high dignitaries of the Established Church, and the Regius professors at Oxford and Cambridge. His wishes must also be consulted with regard to the highest posts, not

<sup>1</sup> A. L. Lowell: *Government of England*, I. p. 69.

only in the Civil Service, but in the Navy, Army, and Air Force: announcements of this kind, if of special public interest, are commonly made direct from 10 Downing Street. Furthermore, the Premier has a presumed right to nominate to any new office under the Crown which Parliament may choose to create.

In the third place, the Prime Minister used generally to be leader of the Commons, that is to say, he arranged the plan of business for the session; took the lead when any question of misconduct in the House arose; and assiduously watched the debates so as to encourage Government supporters and ensure as smooth a passage as possible for Government measures. This particular burden, involving long hours of unprofitable waiting on the Treasury Bench (where ministers sit), is now felt to be excessive. In old days the Prime Minister was sometimes a member of the House of Lords, but this is held to involve a dangerous affront to the modern democratic idea. It is more likely that in future some tried colleague will normally receive a regular appointment as Leader of the House, whose decisions the Premier may override by his personal intervention at rare intervals.

In the last place, the Prime Minister has enormous reserve powers in time of crisis. A great debating assembly, like the House of Commons, loses the public confidence when instant action is called for. Even the Cabinet with its score of members is believed to talk too much. The wise Sovereign is less disposed than ever at such a time to intervene with his advice or to transfer authority. Then the Prime Minister, from the days of the Elder Pitt to those of Mr. Winston Churchill, becomes a kind of temporary dictator; consults habitually with a handful of colleagues only; and

depends directly upon a sometimes misplaced but always understandable patriotic fervour of the people, which sees the national cause embodied in his person.

#### §4. HIS MAJESTY'S OPPOSITION

One all-important distinction between our form of government and that of many other countries to-day is that the British Cabinet never even in theory represents all the best talents in the nation. At any given moment there are good men, whose experience and character would make them more suitable as Home Secretary or as Foreign Secretary than the actual occupants of those offices, excluded by the fact that they belong to the party which for that moment is in a minority in the State. Not only so, but the men who are in office consume much of their time in considering, not what it is best to do, but what the party situation will enable them to do—a good Bill *may* benefit the State but it *must* be one which will elude effective attack by the Opposition. And the Prime Minister himself is commonly regarded with complete mistrust—and a very vocal mistrust at that—by about one-third of the electorate.

It is not enough to say, in these difficult days, that this is a system under which we have long flourished, or to point out that the very phrase "His Majesty's Opposition" is a century old—and what a century of prosperity and progress! What do we gain by it now? The answer is threefold: firstly, the Opposition leaders are all the time acquiring experience through the work of opposing, and there are some mistakes at least which they are learning to avoid. This is extremely important, because the existence of a reasonably efficient

alternative administration alone gives the country real liberty of choice. At the same time, Opposition orators keep the Government up to the mark. There are few Bills which do not gain something through the intensive criticism to which the system subjects them, while the exposure of slackness or corruption in the conduct of Government business is an ever-present threat. And lastly, strong, well-disciplined attacks by the Opposition put the Government on their mettle and bring to light the best as well as the worst features in their conduct of affairs.

Above all, the party aspect of politics, which makes it a great game of Ins and Outs, helps to keep public interest wide awake. England was for centuries fortunate in the existence of two parties, each of which had its roots deep in the national life and each of which brought forward great leaders, who through party served the State. Between the wars the position was less satisfactory: three parties, indeed, contended for power, but of the three only the Conservatives were ever able to secure a clear majority in the House of Commons so as to carry their programme through. But the dramatic reversal of fortune in the 1945 Election, resulting in the sudden and complete discomfiture of the party which had been predominant for a quarter of a century, has restored vigour to the political system by reviving interest. For apathy is a greater danger to free institutions than partisanship: even now about one-quarter of the electorate does not bother to record its vote.

Nevertheless, it is desirable to state clearly the conditions upon which the smooth working of party government depends. Firstly, there must be a readiness to regard an issue as closed—the situation would

be impossible if each new administration spent its time undoing the measures passed by its opponents. Secondly, compromise must be in the air—the parliamentary machine cannot work properly if every action of the Government is challenged and every minister pursued by a furious vendetta, as in the days of impeachments. Thirdly, changes of government must not be too frequent: unless a party is strong enough to carry its measures over a period of four or five years it can follow out no proper constructive policy and will discredit both itself and the system.

Finally, there must be a symbol of national unity and tradition to fire the imagination of the common man, to keep the party struggle within bounds, and to remind opposing Cabinets, as they succeed one another, of their common obligations to the State. The parliamentary convention which, under all ordinary circumstances, forbids the use of the King's name in debate, lest it should imply that he too was a partisan, illustrates a general belief that to personify national unity is both the natural and the necessary function of the British monarchy.



## V THE KING

### §1. THE HISTORY OF THE MONARCHY

THE Crown of England is above all the symbol of the continuity of English history, and for that reason the study of its powers, their rise and fall, has some meaning for us to-day. In the Norman period the powers of government were nearly all concentrated in the hands of the King, and although the later Middle Ages witnessed the transference of many of them—to the King's judges, for instance—a resolute Sovereign continued to make his wishes effective in every department of State. This was still true under the Tudors, whose Privy Council, as we know, existed to advise but not to replace the King. There followed the classic struggle between Crown and Parliament, from which the English Parliament, having enlisted the religious sympathies of the majority of the people on their side, emerged triumphant in 1689. With William III and Mary II the modern history of the monarchy begins.

The evolution of the Cabinet was, as we have seen, the main achievement of the next one and a half centuries. But from the point of view from which we are now considering it, the most remarkable episode of that long period was George III's attempted revival of personal authority over his parliamentary ministers, which came to a disastrous end with our failure in the American War in 1782. This, however, left virtually no trace upon the constitution. It is more to our

purpose to notice the sustained interest in foreign policy—the fact that our kings were also Electors of Hanover was one cause and their marriages with German princesses perhaps another. A sustained interest in the army likewise distinguished the royal house for many generations. George II was the last king to command in person, but his younger son, the Duke of Cumberland, and George III's second son, the Duke of York (a great administrator), are memorable instances of this connection, of which the annual Trooping of the Colour is a reminder of a very Hanoverian type. But the outstanding feature is the survival of political influence on the negative side: in the early nineteenth century the Cabinet still required the King's leave to introduce any contentious legislation. That this was no mere formality is shown by the fall of Pitt in 1801, when George III refused to allow Catholic Emancipation; the dismissal of the Grenville ministry upon the same issue in 1807; and the importance of William IV's doubts and hesitations in the story of the Reform Bill crisis. Lastly, we must add the unpopularity which seemed then to be an attribute of the Crown. George I was a complete stranger; George II vain and slightly ridiculous; George III in a reign of sixty years covered the whole gamut from popular young hero to hated despot and thence to pitied madman; and George IV and his brothers (though the first-named at least was shrewder than the books often suggest) were guilty of grave excesses to which their debts, constituting a heavy drain on the public purse, all too frequently drew attention.

The reign of Queen Victoria passed through several distinct phases. From the outset her youth and innocence gave the Court a dignity and an exemplary

moral tone which it retained throughout. In the 'fifties, the period when Palmerston was virtually dismissed the Foreign Office at the royal behest and Prince Albert was promoted to be Prince Consort, the influence of the monarchy, especially in foreign affairs, underwent some revival, though the Prince's sense of proportion would probably have prevented any attempt to dictate to the representatives of the people. After his death the Queen largely abandoned her social functions and was for a time highly unpopular, an unpopularity which she kept alive in some quarters by her determined hostility—within broad limits of constitutional propriety—towards Gladstone. Finally, in old age she re-emerged as the symbol of imperial unity: a formidable little old lady, slowing down the rate of progress in domestic affairs, zealously using her influence among the numerous crowned heads who were her relations to advance—so far as she understood them—our interests abroad, and always deserving that last tribute by which her birthday became Empire Day.

For the twentieth century all is conjecture: many valuable diaries, letters, and memoirs of the reign of King Edward VII, much more of that of George V, remain unpublished. But it is generally held that the powers of the monarchy, left intact during the venerable old age of Queen Victoria, were diminished under her son in spite of his protests: for example, the right to veto the inclusion of some person in the ministry finally disappeared at this time. As for the twenty-five years of King George V, it seems evident that the war gave him a great opportunity to stand out as representative of the nation, of which he made full use, and that in the last years of his reign some of that veneration, which had been felt for his grandmother, was felt

for him. Thus he won an influence over men which more than replaced any decrease in legal powers. Moreover, as we shall see,<sup>1</sup> a great change in the constitution of the British Empire made George V not merely *a* but *the* direct link between its component parts, a function which King George VI now inherits.

The legal, as distinct from the political, history of the British monarchy, may be dealt with very briefly. By the Bill of Rights (1689) any Catholic heir, or heir marrying a Catholic, is debarred from the succession, and by the Act of Settlement (1701) the succession was further restricted to "the Princess Sophia and the heirs of her body being Protestant," a line which has never yet failed and appears unlikely to fail. But an important Regency Act of 1937 for the first time makes permanent provision for a regent, who shall act while the sovereign is under the age of eighteen years or is certified by high officials of state to be incapable from mental or physical causes of discharging his duties. The Regent is to be the person of full age next in succession to the throne.

## §2. THE KING'S POWERS

British Kingship, like most other parts of our ancient Constitution, has a very modern side to it. Our King, in virtue of his descent and of his office, is the living representative of our national history. So far from concealing the popular character of our institutions . . . he brings it into prominence. He is not the leader of a party, nor the representative of a class: he is the chief of a nation. . . . He is everybody's King.<sup>2</sup>

<sup>1</sup> Below, p. 62.

<sup>2</sup> Earl of Balfour: Introduction to Bagehot's *English Constitution*, p. xxv.

Everybody's King: that is precisely the feeling which the epochs of a reign—an accession, a coronation, a jubilee—convey, often in a rather sentimental form, to the minds of millions. Parties and classes disappear into the background of our thoughts, as we contemplate, on the one hand the long and eventful history which links Alfred to George VI, and on the other hand the personality of a king, for which it is so much easier to feel interest and sympathy than for a prosaic organization such as a party. In that connection we must reckon also the royal broadcast, which brings the King's voice into every home, among the most important functions of modern monarchy. Thus the King's first source of power is that he, more than anyone else, can remind us that we are one nation.

Secondly, we must notice the influence which the King still wields as "Head of Society." All titles and decorations are awarded in his name; and though the two lists of New Year Honours and King's Birthday Honours are compiled under the authority of the Prime Minister, it is obvious that in doubtful cases it is in the King's power to influence the final decision, and he may occasionally add names of his own choosing. More important is the distinction which the King (or any royal personage) can confer upon an institution or society by a royal visit or by permission to cite a royal name as patron. From a university to a hospital there is the same desire to obtain this hallmark of respectability; and in these days of publicity, when the newspapers get hold of everything, the success of any charitable enterprise depends to an enormous extent upon its ability to attract the royal interest. This achieved, it will not lack other patrons and patronesses.

At the present day the King's greatly diminished

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influence upon foreign affairs is of the same kind.<sup>1</sup> Although our ambassadors and ministers abroad are ceremonially treated as his personal representatives, it is safe to say that the King has no control whatever over the policy they are instructed to pursue. What he can do is to add the personal touch, of which the newspapers will make much in any land. An attack is made upon the life of a foreign President—the King cables his sympathy. A great international conference assembles in London—the King opens it, and perhaps entertains the delegates at Buckingham Palace. Our trade is being supplanted in South America—the King's son is sent on a tour which, if successful, will create a feeling of amity and a fashion for everything British. All these are functions which the prestige of an ancient monarchy such as ours enables it to discharge with advantage to the country.

Then the observant newspaper reader will be aware that part of the King's time is given up to audiences. For some of the people he receives—a successful airman, perhaps, or a retiring official—this is merely a social distinction, but ministers are his most frequent visitors and above all the Prime Minister. In a famous book on the constitution, written eighty years ago, Bagehot declared that, in his relations with his Prime Minister, the Sovereign had three rights—"the right to be consulted, the right to encourage, the right to warn." It is probable that the Sovereign is consulted less fully now than then: there used to be a taking of

<sup>1</sup> Dr. G. M. Trevelyan's *Grey of Fallodon* has revealed the fact that King George V, in December 1912, gave Prince Henry of Prussia a direct warning that, in the event of war, "England would under certain circumstances" come to the assistance of France and Russia. But the King informs the Foreign Secretary of his action in terms which suggest that such intervention on his part was unusual.

the King's pleasure before every official appointment was announced and a communication of every dispatch before it was sent abroad, but it is likely that these formalities are only observed now in matters of major importance. But the powers of encouragement and discouragement retain their vigour, because, as Bagehot clearly showed, the King has two advantages over the Premier, which may outweigh the fact that the latter is inevitably a man of far more than average ability, and the King almost inevitably not. One advantage is the traditional reverence for the King's office, which must add weight to his opinions and deters the minister from directly refuting them. This deference on the part of the minister might, however, diminish with the general relaxation of etiquette. But the other advantage lies in the nature of things, for the King is at all events a permanent official and the Prime Minister only a temporary one, so that a long experience will make the King a mentor whom a wise minister is not only obliged, but positively desires, to consult. In a word, the King knows the mistakes made by a Premier's predecessors, and probably why they made them.

But, in addition to these various kinds of political influence, the British monarchy retains some vestiges of political power. The power of creating peers, so as to swamp opposition to ministers in the House of Lords, is one of these, but the passage of the Parliament Act makes it improbable that the King would ever feel called upon to destroy the effect of a veto which is merely suspensive. It is more likely that he would use his influence (as Queen Victoria twice did) to effect a compromise between the Upper House and the Government of the day, and, failing that, he would

almost certainly require a General Election to show the will of the country before he acted.

This brings us to a more real issue: has the King the right to dissolve, or to refuse to dissolve, Parliament in defiance of his ministers' wishes and advice? His control (within a five-year limit) of the duration of a Parliament is the weapon which enables a Prime Minister to cow faction among his own supporters in the House (who fear the trouble of a dissolution) and disregard press campaigns and other popular follies outside (since they cannot force him to dissolve). It therefore follows that, if the King withheld this control from any Prime Minister, the Government would be driven to resign. The question thus becomes: in what circumstances may the King dismiss his ministers? In two cases, surely, and two alone: one is when their demand for a dissolution occurs with unreasonable frequency and is likely, if acceded to, to bring the democratic system into contempt; the other (a more probable situation) is when their refusal to advise a dissolution is inspired by the knowledge that the general trend of their policy runs contrary to the wishes of their proper masters, the electors.

The King's function is to see that the constitution functions in the normal manner. It functions in the normal manner so long as the electors are asked to decide between competing parties at intervals of reasonable length. He would be justified in refusing to assent to a policy which subverted the democratic basis of the Constitution, by unnecessary or indefinite prolongations of the life of Parliament, by a gerry-mandering of the constituencies in the interests of one party, or by fundamental modification of the electoral system to the same end. He would not be justified in other circumstances.<sup>1</sup>

<sup>1</sup> W. I. Jennings: *Cabinet Government* (1936), p. 307.



On this showing there is a third type of situation, one which is bound to recur from time to time, calling for political action on the part of the King. In the normal course of events the resignation of His Majesty's ministers and the formal surrender of their powers into the hands of the King involves only a comparatively simple transaction, by which the King sends at once for the Leader of the Opposition, which has proved too strong for the outgoing Premier to withstand, and invites him to form a new Government. The assignment of offices may take a week or so to complete, and in the meantime the retiring ministers retain their Seals. But if the Opposition has no one main leader the constitution ceases to "function in the normal manner," and the King himself must choose. This is liable to happen whenever the Opposition consists of two or more approximately equal parties or groups, or has two or more leaders of approximately equal standing. It is sometimes maintained that the King's duty in such a case is to seek the advice of the outgoing Prime Minister, but he is a person who may lack knowledge of, and almost certainly lacks sympathy with, the personal factors which have to be considered in treating with his opponents. Accordingly, the King may be expected to conduct his own negotiations and to consult elder statesmen and others at his own—and his Private Secretary's—discretion. Thus King George V, by his action in 1923, when he refused to appoint a Prime Minister who numbered among his disqualifications membership of the House of Lords, personally added a precedent of some significance to our constitutional traditions.

## §3. THE KING AND THE EMPIRE

The British Empire began with the notion of allegiance to a king, for the Puritans who escaped to America from the persecuting Church and State system of Laud and Wentworth continued to regard themselves as English subjects. This is still a characteristic feature to-day, since—if we except the Protectorates, which are not in the eyes of the law part of the Empire—a citizen of any part of the Empire, whatever his race, may come to Britain and be elected a Member of Parliament, or, if he resides here, may vote in elections: allegiance is the only test. Until recently this essential connection between King and Empire was hidden by the fact that there were so many other links. The British Parliament was competent to legislate for the whole Empire, and the (mainly British) Judicial Committee of the Privy Council was competent to decide appeal cases for the whole Empire. But in 1931 the Statute of Westminster declared that Britain and the Dominions (Canada, Australia, New Zealand, South Africa, Newfoundland, and the Irish Free State) were all legal equals, which means that any regulation by the mother country survives only on sufferance. Thus the crisis of December 1936, when King Edward VIII determined to abdicate, could only be surmounted by the decision of each separate Dominion to give his determination the force of law. Had any refused to do so, the unity of the Commonwealth would have been destroyed.<sup>1</sup>

From this there follows the increased importance of the King in relation to the Empire. In the past

<sup>1</sup> As it was, the reign was legally terminated in the Union of South Africa the day before, and in the Irish Free State the day after, its termination in the rest of the Commonwealth.

Governors of Colonies were always the nominal representatives of the Crown, but from the eighteenth century onwards they were really appointed by the Prime Minister of the day and his colleagues, and were answerable to them for their actions. The new doctrine of equality makes this an impossible position, so each Governor-General of a Dominion is now appointed by the King after consultation only with the Government of the Dominion concerned. This enables the Dominion, if it so wishes, to insist upon an unsuitable choice—a person whose social position ill befits the King's representative, or the representative merely of a party, or someone who, however eminent inside the Dominion, lacks any direct previous contact with the King or the royal house. But it does enhance the King's power, because the Governor's decisions are his decisions: in the rather more excitable political atmosphere of a Dominion it is still not unknown for a Governor-General to exercise real authority by forbidding a dissolution of Parliament. Moreover, it means that the King, in discussing imperial affairs with the British Prime Minister, may possess independent sources of information, which again adds to his power.

Nevertheless, no one supposes that the British Empire can be held together by organization, however modern. What matters in the long run is the spirit. The monarchy retains enough of ancient splendour to captivate the imagination of remote tribes and subject peoples, who apprehend a king as something similar to, but greater than, their native chiefs. Its social glamour and interest of personality, enhanced by royal journeys overseas, give England a warmer place in the heart of the Dominion citizen, conscious as he is of the new nation to which he belongs. And the habits

of caution, sympathy and compromise, for which the British monarchy nowadays stands, may make it possible for the Empire to survive the shocks which are quite inevitable, with so many diverging interests and separate policies. All this explains why the King's Coronation has now become pre-eminently an imperial ceremony.

#### §4. POWERS OF THE CROWN

Hitherto we have been considering the activities of the King as a person: but a great many other activities go on in his name—activities in which his personal wishes play no part, but which, in the eyes of the law, appertain to the wearer of the Crown. In many cases they are things which our earlier kings did with full responsibility, which caused trouble in Parliament, and which after 1688 or 1714 came to be done more satisfactorily by the King's ministers acting in his name. A single maxim may show how completely the King as a person has been obliterated from the general business of government. "The King can do no wrong" meant originally that the King cannot be prosecuted in law courts which are, in a sense, "his" courts: it has come to mean conversely that, whatever (political) wrong is done in the King's name, some other person, normally a minister of the Crown, must bear the responsibility.

A great many activities of the Crown result nowadays from Acts of Parliament, which provide that Orders in Council shall be issued to fill in the technical or variable details of the law in question. Under a Foot and Mouth Disease Act, for instance, an Order may be required to make the provisions of the law applicable to any particular district; or elaborate

regulations under an Act may require to be submitted to the Council before they become valid. This is the main business of the meetings of three or more Councillors with the King and the Clerk, referred to above: the titles of Orders are read out, the King declares them "Approved," and the Clerk affixes the appropriate seal and his signature.

More interest, however, attaches to the use of the royal prerogative, that is to say, of those powers of the Crown which it possesses by unbroken tradition, acknowledged as such in the law courts, and not by statute. Much of this finds expression in merely conventional forms, such as the business of signing every army officer's commission, to which Queen Victoria devoted endless hours; the document under the Great Seal conveying the royal assent to legislation; and the Order for the issue of writs, which, as has been previously explained, is the first step in the summoning of a new Parliament. The formal language of this last perhaps merits quotation.

At the Court at —, the — day of —, 19—. Present, the King's Most Excellent Majesty in Council. His Majesty having been this day pleased by His Royal Proclamation to dissolve the present Parliament and to declare the calling of another, is hereby further pleased, by and with the advice of his Privy Council, to order that the Right Honourable the Lord High Chancellor . . . do upon notice of this His Majesty's order, forthwith cause writs to be issued in due form and according to law for the calling of a new Parliament, to meet at the City of Westminster: which writs are to be returnable on — day, the — day of —, 19—.

The fact that such documents are both numerous and indispensable constitutes one reason why the Regency

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Act of 1937 provides for the automatic appointment of five Councillors of State (the Sovereign's wife or husband and the four nearest heirs to the Crown, being of full age), who are to act as his substitute in matters of this kind whenever the Sovereign is absent from the United Kingdom or temporarily incapacitated by illness. For the lack of such regular provision was found inconvenient on two occasions towards the end of the reign of King George V.

But the prerogative also includes some powers more valuable to ministers—and more debatable. Such in the past was the prerogative of pardon, but this has not been used for some centuries in the case of political offences. The prerogative gives ministers power to reform the army, as by the setting up of a Committee of Imperial Defence, and to organize universities—nearly all our modern universities were established without the intervention of Parliament. These are powers which might be abused: others, the use of which has at times been actually challenged, include the power of ceding territory, the power of dealing with enemy trade and property in time of war, and the power of taking measures otherwise illegal in order to prevent an invasion of the realm. In the war of 1914-18 war ministers used the prerogative with such vigour that on one occasion (*A.-G. v. Wilts United Dairies*) they were successfully challenged for an attempt to impose taxation without consent of Parliament in defiance of the Petition of Right of 1628!

Lastly, there is the power of appointment to all kinds of offices under the Crown. Not all the offices to which the Government of the day appoints are, strictly speaking, under the Crown: bishops, for instance, are legally appointed by the Cathedral

Chapter on the recommendation of the Crown, and many of the newer government departments have been incorporated, so that their officials are servants of the department only. The point has some legal significance, because where an office is held under the Crown certain consequences have always followed. The holder of the office is personally responsible at law for his official actions (because the King is his employer and "can do no wrong"); he cannot sue his employer if his wages are withheld (because the King cannot be prosecuted in his own courts); and as a royal servant he is dismissible without notice or redress. In 1947, however, the ancient common law principle was altered, so that the Crown, as distinct from the King, might henceforth be sued in the same way as one of its subjects. In any case what matters most is that all Crown officials owe obedience in theory to the King, as titular head of the executive or administration, but in practice to its political head the Cabinet; but neither head could function at all apart from a vast body of dependent officials.

## VI THE KING'S COURTS

### §1. THEIR EVOLUTION

ONE of the original functions of a king in any country was to judge disputes between his subjects and declare what constituted offences against the whole community. Accordingly, we find that in the primitive England over which William the Conqueror held sway the King himself acted as judge in important cases which were brought to court. A slight trace of this historical background of our legal system survives in the prerogative of pardon, still exercised by the Home Secretary in the name of the Crown. But broadly speaking the judicial powers of the Crown have been dissipated in four distinct stages.

The first—a process which had begun in the time of the Conqueror—was the hearing of cases at the royal court by the Council, acting for the King. This, we may note in passing, survives in the functions of the Judicial Committee of the Privy Council, the judgments of which still technically take the form of recommendations to the Crown. Secondly, the hearing of cases devolved upon special Councillors, who travelled round the country in the King's name, pronouncing judgments as authoritative as if they had been given at court and in the royal presence. This system, which was firmly established in the reign of Henry II, is the system of judges riding their circuits to hold the local assizes. Thirdly, there was the problem of hard cases, where the rigid administration of



law would work unfairly and it was presumed to be the King's beneficent task, if he were petitioned, to interfere. In the thirteenth century this, too, became separate from the royal office and was transferred to the Chancellor in his capacity as Keeper of the King's Conscience. Hence came a separate system of law, known as Equity, which was administered in the special Court of Chancery. Lastly, the judges ceased to be under the control of the Crown. To this day a judge entering his court is treated as the immediate representative of the Crown, before whom all heads are bared. But since 1714 his patent of office has conferred the appointment "during good behaviour"; he can be removed from it only by joint address of both Houses of Parliament to the Crown; and his salary is fixed, so that no pressure can be brought to bear on him. When in 1931 a special law was passed to enable the salaries of all government servants, from the Premier downwards, to be reduced as an economy measure, the judges protested against their inclusion as involving an encroachment upon their absolute independence.

Side by side with the courts there has evolved the system of law which they administer. At the present time this consists mainly of statutes enacted by Parliament—a series which stretches back to the land laws of Edward I and even to Magna Carta, lying beyond the origin of Parliament. But the making of statutes to govern all kinds of activities is largely a new idea: new laws were never numerous until the nineteenth century, and if we go back to the Middle Ages, when the sessions of Parliament were very much shorter, it is obvious that they must have been very few indeed. How then did the judges decide cases?

The answer is twofold. On the one hand they relied upon general principles or maxims of law, derived partly from the earlier Roman law (which they studied) and partly from legal customs which they found already widely in force as they travelled the country. On the other hand they relied upon decisions already given, claiming that if they were considered narrowly enough they would always shed light upon a new problem, quite apart from any reference to general principles. Such is the origin of common law, which nowadays consists of case law—the records of decided cases upon which a judge bases any new decision not precisely covered by statute law. But the name really means “law (i.e. custom) common to all parts of the country,” which may serve to remind us that the judges once depended upon local assistance in all their work.

Before the age of royal judges all cases, which were not important enough to be brought before the King in person, were decided locally, for the most part in the County Court, but also in feudal courts held by the Lord of the Manor. When the judges and assizes were instituted the King (partly for the sake of collecting fines) wished to make these royal courts the more popular and efficient. Hence the use of two instruments, which have had a great history. One was a jury sworn to present criminal offences (i.e. produce the offenders) before the royal judge. This is the origin of the Grand Jury, containing the leading men of the county, which until 1933 continued to examine the cases to be brought at assizes and certify that there was enough evidence to warrant a hearing. The other is our most distinctive legal institution, the Petty Jury. In the reign of Henry II the petty jury were twelve

witnesses who decided cases of land ownership before a royal judge from their own knowledge—a method which won favour because of its expedition. But by the end of the Middle Ages it had emerged as the modern jury of twelve ordinary men, who hear evidence and a judge's summing-up—and then declare a verdict of guilty or not guilty, which to condemn must be unanimous.

Our legal system has been very conservative, that is to say, great changes have been made slowly and reluctantly, however urgently they were needed. One main reason for this we also inherit from the Middle Ages, namely the four Inns of Court, to one or another of which every barrister must belong, and from among the members of which all judges are chosen. The Inn is a close fellowship or society: in such an environment ancient traditions flourish, and the very fact that such a community exists makes it difficult to modernize the law. This is clearly shown by the history of the sixteenth to nineteenth centuries. The early Stuart kings tried to establish new courts of their own, administering a new and often more efficient law upon the Roman model: this threw the common lawyers on to the side of Parliament and helps to explain the defeat of Charles I. From the time of Charles II onwards kings left the common law courts severely alone, with the result that abuses accumulated and they became a by-word for inefficiency and dilatoriness. Throughout a long period England was governed mainly through local courts held by justices of the peace, who were local gentry long entrusted with legal powers and advanced by the Tudors to be a kind of local dictators. In the eighteenth century J.P.'s were usually reactionary, often ignorant, and sometimes

corrupt, but the higher courts rarely interfered with them; and it was not until 1873 that the Judicature Act marked the real modernization of our legal institutions.

The reform of that year completely reorganized the courts and removed the crowning absurdity of the old system, which was the hard and fast line drawn between statute and common law, on the one hand, and equity, now grown into an elaborate set of rules administered in Chancery, on the other. Equity included such principles as the following:

Equity will not suffer a wrong to be without a remedy.  
 He who seeks equity must do equity.  
 Delay defeats equity.  
 Equality is equity.  
 Equity looks to the intent, rather than to the form.

To obtain the application even of such common-sense ideas as these a case had had to pass to and fro between the two sets of courts: but the new system amalgamated them into a single High Court, any Division of which could administer both common law and equity. Where the two conflicted, equity was to prevail. This marks the final triumph of ideas which Jeremy Bentham had preached to unwilling ears in the reign of George IV, and which earlier reformers, such as Lord Brougham, had spent long years endeavouring to translate into action.

## §2. THE COURTS OF LAW TO-DAY

Most of us, when we think of legal matters at all, think in terms of criminal charges, that is to say, police prosecutions (though they may also be started by private persons) for some alleged breach of the law

of the land, which may mean anything from an act of murder to the leaving of a motor-car too long at the side of the street. We will therefore consider first the administration of the criminal law, which applies to such matters, beginning at the lowest courts.

If, in the opinion of the police, they have caught you more or less in the act of committing a serious crime, the proceedings may begin with your immediate arrest. But it is more usual for the police to proceed by laying an information before a magistrate, who will probably have a summons issued, requiring you to appear in court on a day named; or he may issue a warrant of arrest, if he thinks this necessary to secure your due appearance. In any event, the case will probably be heard by justices of the peace, unpaid amateur officials who are appointed by the Lord Chancellor on the advice of a special local committee. Every county, county borough or other large town has its own commission of the peace, in which a considerable number of leading citizens are named for this purpose. Two or more sit at a time—there is usually a regular rota—in each Petty Sessional Division (of these there are more than a thousand in all), and in populous areas Petty Sessions, commonly known as the Police Court, meets daily. Two functions are there discharged—the punishment of minor offences by imprisonment for so many days or weeks or a fine of not more than £50; and the preliminary examination of more serious crimes, to see whether the evidence warrants the commitment of the accused for fuller trial elsewhere. In some cases, however, a person accused of a serious crime has the option of a summary trial at petty sessions, if he prefers.

But the justices of the peace also hold for each county a more important court known as Quarter Sessions, which sits four times a year (sometimes at different centres) and is attended by all active magistrates. There the larger body hears appeals against decisions made at petty sessions and deals with the graver class, known as indictable offences, in the trial of which the Court has the help of a petty jury. Quarter sessions cannot, indeed, try cases of murder and manslaughter or others for which the penalty may be penal servitude for life, but it does in fact handle about two-thirds of all indictable offences.

This would be a matter for surprise and perhaps alarm, if the law administered in these courts were the law as interpreted by amateurs pure and simple. There are three important safeguards. The justices never act without the assistance of their Clerk, who is a trained solicitor, and at quarter sessions in particular grave decisions are influenced by the officer of that court, known as the Clerk of the Peace for the County. Secondly, in the larger towns they are often superseded by professional justices of two types—the police magistrate or Stipendiary, who can hold petty sessions without the presence of another justice and in fact does most of the day-to-day business; and an official of higher dignity known as the Recorder, a barrister of some standing who is paid to conduct quarter sessions in those boroughs which have a separate commission of the peace. Both stipendiary magistrates and recorders are appointed by the Crown. Thirdly, there is the power of revising and censoring all activities of the justices of the peace, which is freely exercised by the High Court, to which we now turn.

The High Court of Justice and the Court of Appeal

were both created by the Act of 1873, which came into force two years later. But the High Court, although it discharges many of its functions at the Law Courts in the Strand, is strictly speaking neither a place nor even an assembly of judges—it is a list of judges, who try cases either singly or in groups. For purposes of criminal law administration they are at present eighteen in number, headed by the Lord Chief Justice, and are known as the King's Bench Division of the High Court. The gravest crimes usually come before them at assizes, which one or two judges, travelling one of the eight circuits into which the country is divided, hold three times a year in most county towns and other important or convenient centres. Petty juries are employed as at quarter sessions, the main difference lying in the fact that His Majesty's judge is empowered to impose all sentences which the law may authorize. In London, however, the business is too great to be dealt with by the ordinary system of assizes, so a Central Criminal Court has been instituted, which sits almost continuously under a judge at the Old Bailey; and cases from the provinces are sometimes transferred to this court to escape local prejudice.

There is no general right of appeal against the verdict given by a petty jury on the facts of a criminal case. But three judges of the King's Bench Division sitting together constitute a Court of Criminal Appeal, before which a convicted criminal (through his advisers) may not only argue that the law in his case has been misinterpreted, but may also ask leave to appeal to the court upon the facts, on the ground that the jury has acted on wrong information. Nevertheless, the number of appeals to this court, except against capital sentences, is not very large, because the court

is empowered to increase, as well as diminish or quash, a sentence imposed by a lower court. Above the Court of Criminal Appeal, and concerning itself exclusively with questions of law, there is finally the House of Lords, which for legal purposes is composed of the Lord Chancellor, ex-Lord Chancellors and ex-judges who happen to be peers, and seven Lords of Appeal in Ordinary, experienced judges who are given life peerages expressly for this purpose. But it is a curious reflection that it is only an established tradition and no law which deters seven hundred other peers of the realm, having no judicial qualifications whatever, from entering this most august court and taking an active part in its proceedings!

However, criminal cases on points of law require a certificate of their importance from the Attorney-General before they can reach the House of Lords, which is mainly concerned with civil suits, to which we now turn. When one citizen sues another, with the object of maintaining his private rights—usually a matter of some pecuniary compensation—proceedings for a small amount may take place in a county court. This, like its ancient predecessor of the same name, is a local court, but the two are entirely unrelated: the modern county courts were instituted by Act of Parliament in 1846, are presided over by a special class of County Court Judges ("His Honour"), and are about 500 in number, grouped into circuits for the judges. At the county court the dispute will be decided by the judge himself, unless either party to the suit chooses to demand a verdict from a jury, which consists of eight persons. But an appeal will usually lie from the county court to the Court of Appeal (described below), and, if the sum at stake is large,



the suit will even begin in the High Court: these are considerations that deter people of limited means from commencing actions against their neighbours. Such a High Court case may be tried either by a judge on circuit at assizes or at the Law Courts in London: the judge will sit with a jury if either party requires it, and it is possible to employ a Special Jury of persons who are better qualified than the average petty jury to grasp the details of a complicated case. From the High Court an appeal lies, for those who can afford it, to the Court of Appeal, consisting of the Master of the Rolls and five Lords Justices of Appeal; and thence to the House of Lords.

So much for the ordinary case, turning on ordinary matters of statute and common law. But for the sake of completeness we must note the existence of two other Divisions of the High Court, besides the King's Bench, the judges of which discharge in the main all the functions so far described. The Chancery Division of five judges exists to try cases arising out of such matters as trusts, wardships, and the disposal of real estate—in short, the kind of suit in which the ancient equity jurisdiction of the Chancellor was most commonly invoked. As for the Probate, Divorce, and Admiralty Division (eight judges) its functions are as obvious as they are apparently ill-assorted, though the fact that they were both included in the jurisdiction of the ancient Church Courts provides a link between the first two. The existing Church Courts, for which the two Archbishops appoint a judge, stand quite outside the three Divisions and are of little practical importance, except to an occasional over-zealous ritualist among the clergy: but they are remarkable in that appeal from them, unlike an appeal from any of the three Divisions

of the High Court, lies to another tribunal than the House of Lords.

This is the Judicial Committee of the Privy Council, the more important business of which is the hearing of appeals from all British Courts held outside the confines of the United Kingdom, except in so far as the self-governing Dominions have chosen since 1931 to limit the right of appeal for their own nationals. As regards the law which it may administer, the Judicial Committee is wholly distinct, for it will take cognizance of Roman-Dutch law from South Africa and old French law from Canada, as well as of our own Indian Penal Code and native customs from every shore where the British flag may chance to fly. But as regards personnel it is less distinct, for although the Judicial Committee includes some retired judges of wide experience in the courts of India and the Dominions, the nucleus is provided by those seven Lords of Appeal in Ordinary, who are likewise the principal judges in appeals from the courts of the United Kingdom, when they are heard in the House of Lords.

### §3. THE LAW AND THE CITIZEN

The connection between the law and the life of the law-abiding citizen is by no means self-evident. At one time or another he may be involved in some petty case—is prosecuted by the police and pays a small fine, or has a civil action with regard to his business or his house. But when this happens he will entrust his interests to a professional solicitor, who will argue his case for him in any of the lower courts; or, if it is a High Court matter, the solicitor will engage a barrister to appear: and the payment of these lawyers' fees rids

the citizen of direct responsibility for the conduct of the proceedings. To be arrested and to stand in the dock on a serious criminal charge is the fate of few of us.

Nevertheless, the courts could not function without lay assistance. The holding of assizes and quarter sessions involves the attendance of a large number of jurymen, from whom the petty juries required to hear particular cases are picked at random. For this purpose any person occupying property worth £20 a year is normally liable to serve; his presence in court may be needed for several days on end; and, as payment ranges between a shilling a case and nothing, a shopkeeper or business man may suffer considerable financial loss. The local coroner, the official whose task it is to investigate every death which is not due to obvious natural causes, may also require the help of a smaller jury in determining his verdict. But jury-service devolves automatically and inescapably: a duty which is more tedious and is often shirked is that of giving evidence in courts of law. Most cases which are at all doubtful turn upon the evidence of witnesses, and, if their names are known, they can be compelled to attend court by a writ of subpoena. Otherwise (e.g. in motor accident cases) they often refuse to come forward, partly because of the loss of time involved in what is at best a rather thankless task, and partly from dread of the hostile cross-examination, by means of questions on their evidence, to which they will be submitted by the legal representatives of the other party. The cross-examination system, as a method of finding out the truth, has been described as the glory of the English common law: but it is not in the interests of justice that it should also be allowed to operate as a deterrent.

More generally, of course, the machinery of the law, in so far as it runs smoothly, is a protection to the law-abiding citizen. His person and property are safeguarded against malefactors of all kinds, not merely by the existence of the police (as we too readily may suppose), but by the fact that the law will nowadays ensure a speedy conviction, when a criminal is caught. To this there is one big exception at the present day. In civil cases the preliminary formalities—attendance at court, the filling-in of forms, and especially the payment of a fee which ranges from 1s. to £2 10s. *od.* (according to the amount claimed)—often prevent the very poor from attempting to assert their rights, in such matters as the ejection of an unwelcome lodger, for instance. In the same way, although the party that wins a suit is usually awarded costs, which means that the court orders part (rarely the whole) of his legal expenses to be paid eventually by the other side, the risk is too great for a small man suing a corporation to be willing to carry his case by way of appeal from court to court.

The law also protects the citizen, not only against the individual wrong-doer, but against the State. The supreme safeguard of English liberties lies in the fact that the activities of the Government, which in many countries are above the law, are here subjected to review in the ordinary law courts. If you are arrested by order of the Government, except on manifest suspicion of a crime, your friends can procure a writ of Habeas Corpus, requiring you to be produced before a High Court judge, who will decide whether you are legally detained. Moreover, you will be able to sue the policeman who arrested you, and the courts will not allow the fact that he acted under orders to

cover any high-handed conduct. And, more generally, the courts will not allow any official, from the Prime Minister to the Postmaster, to do anything which an ordinary person cannot do, unless statute law or (very rarely) the prerogative of the Crown as interpreted by the judges gives authority.

Apropos of this, it used to be pointed out that in England there was no such thing as Administrative Law, or the making of legal decisions by officials. The great increase in the activities of the State during the past forty years has rendered this generalization too sweeping. It is difficult for Parliament to find time to discuss the details of Bills which ought to contain a long string of highly technical clauses; and in many matters those technical clauses require frequent modification to meet a changing situation. Therefore the practice has grown up of enacting skeleton legislation, the details of which are to be filled in by the appropriate Government Department and are to have the force of law. Sometimes provision is made in the Act for a public inquiry to precede the adoption of such departmental regulations, and a commoner form prescribes that they shall be "laid upon the table of the House" (i.e. published for the criticism of Members) for a given number of days before they come into force, so that Parliament may cancel them, if it chooses. Frequently, however, there are no such safeguards; and in any case such regulations once made are immune from criticism by the courts, because they have been given the force of law beforehand. As long ago as 1909, in a case in which the Board of Agriculture authorized the compulsory sale of a farm, Mr. Justice Darling found the Board to be "no more impeachable than Parliament itself."

A still more serious innovation is the practice of authorizing officials by statute to decide disputes between their departments and private citizens. Thus, if the Ministry of Health decides that a house which you own is unfit for habitation and must be remodelled or demolished, your arguments against this decision are liable to be heard, not in a court of law, but by an inspector of the ministry concerned. If the final decision goes against you and you continue recalcitrant, the courts may be required to issue a writ of Mandamus to compel you to obey the order of the ministry: what the courts may not do is to investigate your case themselves. Even if the decision were palpably absurd, the ministry could protect itself by refusing to publish the reasons on which the decision was based: the courts would therefore lack material to go on, and nothing could be done.

The late Lord Hewart, who dubbed this policy of the departments "the new despotism," summed up their hypothetical programme as follows:

Get legislation passed in skeleton form; fill up the gaps with their own rules, orders, and regulations; make it difficult or impossible for Parliament to check the said rules, orders, and regulations; secure for them the force of statute; make their own decision final; arrange that the fact of their decision shall be conclusive proof of its legality; take power to modify the provisions of statutes; and prevent and avoid any sort of appeal to a Court of Law.<sup>1</sup>

The programme is a formidable one and the danger real, but in conclusion there is this much to be said upon the other side. The motive at work is not predominantly that of the despot. British officials, in

<sup>1</sup> *The New Despotism*, p. 21.

comparison with those of most other countries at least, retain a respect for the tradition of the Rule of Law, in which they have been bred. Their object is usually to avoid, not parliamentary control, but parliamentary delays; not the authority of the law, but the obstructiveness of wealthy litigants.

## VII

### THE KING'S OFFICERS

#### §I. THE ARMED FORCES OF THE CROWN

THE title of this chapter will suggest to most of us the Army, the Navy, and perhaps the Air Force. Historically this is quite reasonable, for England has been defended by a service of professional soldiers and professional sailors since the days of Cromwell and Blake. Some existing regiments were first formed in the reign of Charles II, and the names of our warships—though not a fixed establishment of naval personnel—date back to vessels launched under Tudor auspices. The Civil Service, by comparison, is extremely new. As late as the eighteenth century the collection of taxes was the only considerable service in which it was engaged, and government offices in London were manned by a handful of clerks. The number of official employees increased, indeed, with the reforms of 1832-5 (e.g. institution of factory inspectors), but it was not until 1870 that the contemptible practice of recruiting mainly among poor relations and dependants of ministers and their parliamentary supporters gave place finally to recruitment by a severe examination. This reform inaugurated the Civil Service as we know it to-day.

There is another reason why we think of the Armed Forces first. They built up the British Empire; and, although we are unlikely to try to extend it again by acts of aggressive warfare, we depend upon the Armed Forces for its defence. Not only so, but the



ordinary citizen has a threefold connection with the military, which he has not with the civil service. He may be attached to it voluntarily, as a cadet or a free-will Territorial, or under Act of Parliament, if his age-group is affected by the Militia Act of 1939 or subsequent National Service regulations. And in case of an invasion the common law will require him, statute or no statute, to take part in the defence of the realm.

In peace-time, however, the Armed Forces affect the ordinary, thinking citizen, partly as a major item in the national finances (one battleship costs several million pounds) and partly as a potential threat to his liberty. Modern weapons make a government and a mass of unarmed citizens, even acting together, helpless if an army or an air force "pronounces" in favour of some policy of which they disapprove. In England we have enjoyed since 1689 such protection against this as a law can give. Under the Mutiny Act of that year the maintenance of a standing army in time of peace, declared illegal by the Bill of Rights, was authorized for one year only; and this system of annual authorization is still continued by the Army (Annual) Act. If Parliament did not meet one year, or met and refused to pass the Act, the continued existence of the army in any form would involve a breach of statute, and the special army discipline, known technically as military law, would become illegal; and an army in which officers could only sue their soldiers if they were disobedient might not be very formidable. This may protect us against the employment of the army by the Government against the will of the people as represented by Parliament. It does not protect us against a tyranny maintained by the Army itself. Here

we have only two safeguards. One is the fact that hitherto the Army has been small, since we have relied for defence mainly on our Navy—and the Navy (unless it blockaded the ports) is never likely to oppress us. The other is the fortunate circumstance that both officers and men have normally spent only a part of their working lives in the Army, so that they do not form a caste distinct from the civil population.

In any civil war the attitude of the Army might well prove decisive, witness the alarm in March 1914, when a number of officers stationed at the Curragh, on being questioned (perhaps unwisely) about their intentions in the event of war in Ireland, proposed to resign their commissions or let themselves be cashiered, rather than enforce a Home Rule Act against Ulster. It is therefore most important that in any civil disturbance the Army should be confined to its primary function of restoring law and order, while the duty of punishment (always liable to be mixed up with politics) is left to the ordinary law courts. Here also we have a most valuable legal principle, the recognition of which goes far to prevent the possibility on English soil of acts of vengeance committed by armies elsewhere in the aftermath of civil war. That principle, enshrined in the Petition of Right (1628), is the non-recognition of martial law. In actual fighting there is no law, and it may be the duty of soldiers to kill those who resist them, meeting violence with violence. What they are not entitled to do is to employ summary methods for the trial and punishment of prisoners, in relation to whom their only duty is to keep them in safe custody.

A classic illustration of this invaluable rule may be found in the unhappy history of Wolfe Tone, an

Irishman who invaded Ireland with a French commission, was captured by the British Army, and by it condemned to death.

On the morning when his execution was about to take place application was made to the Irish King's Bench for a writ of Habeas Corpus. The Court at once granted the writ. When it is remembered that Wolfe Tone's substantial guilt was admitted, that the Court was made up of judges who detested the rebels, and that in 1798 Ireland was in the midst of a revolutionary crisis, it will be admitted that no more splendid assertion of the supremacy of the law can be found than the protection of Wolfe Tone by the Irish Bench.<sup>1</sup>

In an imperfect world the Armed Forces of the Crown have their uses, even in times of comparative quiet. Four such uses may be briefly indicated here. One is their employment in an emergency—a serious strike or lock-out, for example—to assist the police in preserving order. Another is the task of evacuating British subjects from foreign countries threatened with invasion or civil war, a task which used to be the prerogative of the Royal Navy, but which can now be discharged by the Air Force, if necessary, in districts remote from the sea or a navigable river. Thirdly, there is the garrisoning of those parts of the Empire which are still inhabited by subject races, presumed to be incapable of effective self-defence. Whether we have any right to maintain control by force as a regular policy imposed upon an unwilling people, however backward, is a difficult question of ethics. But it must be remembered that the Services guard frontiers and maintain communications often by keeping down mere robbers and pirates; that they preserve internal peace

<sup>1</sup> A. V. Dicey: *Law of the Constitution*, p. 290.

and order to the obvious benefit of the native, as well as of the white planter or merchant; and that in time of famine or earthquake a military is readily transformed into a humanitarian service. Finally, we must admit that military strength confers prestige. Remote countries trade more readily with a nation which can keep open its trade-routes if need be with cruisers; and in the counsels of the world that Power which honestly seeks peace when it has nothing to fear from war seems more likely than any unarmed peacemaker to have a following in the dangerous days in which we live.

## §2. THE CIVIL SERVICE

The term "civil service" covers, in theory, all non-military permanent servants of the State—the ubiquitous postman, for example—but the hub of the whole system is the group of public offices in or near Whitehall, where the more important functionaries for the most part do their work. Their activities lack the glamour of the military career, and it is possible to disparage "Whitehall" as a place where everything is done in an endless routine of documents neatly tied together with the famous red tape; though any large office, public or private, would in fact fall into confusion without the routine. The following sentences from the pen of a former Prime Minister may give us a truer picture of the position which our civil servants occupy:

They do not control policy: they are not responsible for it. Belonging to no party, they are for that very reason an invaluable element in Party Government. It is through them, especially through their higher branches,

that the transference of responsibility from one party or one minister to another involves no destructive shock to the administrative machine. There may be change of direction, but the curve is smooth.<sup>1</sup>

What Lord Balfour meant is this. The Cabinet decides what general policy it will pursue—whether to spend more money or less on a department, whether to increase its sphere of action by new laws or to let it alone—but the actual working of the department is left to the officials and depends primarily upon their traditions and alertness. Indeed, the Cabinet relies mainly upon the Civil Service for the accumulated information upon which any new course of action must be based.

Such responsible work requires first-rate men. Since 1870 the administrative grade—those whose duty it is to make and not merely to record decisions—has been recruited, almost exclusively from the universities, by means of a very stiff competitive examination, in which about a dozen out of some three hundred candidates are annually successful. Under them they have of course a large and growing body of clerks and typists. The administrative grade are forbidden to take any part in politics (though they retain the franchise), but their tenure is very secure and there is a good pension to be looked forward to. Moreover the man of great ability will reach eventually the headship of his department, or at least a high position in which he may feel that he is directly influencing the government of the country.

The important Departments of State are at present (1945) about thirty in number, of which some are financial (the Treasury, Ministry of Pensions), some concerned with external relations (Foreign Office and

<sup>1</sup> Earl of Balfour: Introduction to Bagehot's *English Constitution*, p. xxiv.

defence ministries), and others—especially the newer offices—with the internal administration of the country (Home Office, Ministries of Health, Labour, Transport, etc.). If the political head is one of the eight Secretaries of State, the Civil Service head of an office is a Permanent Under-Secretary of State; otherwise the Civil Service head, acting under a minister, is known as the Secretary. But broadly speaking the departments resemble each other in organization, though not in size or dignity; so we may content ourselves with a very brief description of two or three of them.

The Permanent Under-Secretary of State for Foreign Affairs is a person of great consequence, so much so that of late years he has lost his Civil Service anonymity, and his interviews and journeyings abroad—to say nothing of his past recommendations, published long after the event in State papers—have been allowed to interest the public almost as much as if he were a minister. Under him the Foreign Office staff are divided into departments, which specialize in our relations with some particular region of the world; and a part of them are always serving at our embassies and legations abroad, the staff of which is really a section of the Office. Indeed, the Under-Secretary himself has very likely served as an ambassador in the course of his career. Essentially, we may say, the work of this office is to watch what is going on in all parts of the world and prepare minutes, which embody information regarding the past and present with recommendations for future policy. Such minutes may originate with quite junior officials and pass through many hands before they are finally transmitted by the Under-Secretary to the Secretary of State to be embodied in action by the Cabinet.

The main functions of the Home Office are defined by *Whitaker's Almanack* as

the maintenance of the King's peace, the enforcement of rules made for the internal well-being of the community, and the exercise of the prerogative of mercy.

It is responsible for the prisons and the Metropolitan Police, thus maintaining the peace. For the enforcement of rules it employs five or six bodies of inspectors, of whom the factory inspectors are the most important. As for the control of royal pardons by the Home Secretary, that may serve to remind us that he is the Secretary *par excellence*, through whom the Sovereign makes formal communications to his people and by whom he is attended on many formal occasions. And, lest it should appear that this office savours too much of the eighteenth century, we may add that before 1939 it had developed a new department for precautions against air raids. The methods of transacting business, however, may be assumed to resemble closely those of the Foreign Office officials.

The only other office with which we need concern ourselves is the Treasury, the supremacy of which is evidenced by the additional title which its Permanent Secretary bears—"Head of His Majesty's Civil Service." The officials of the Treasury estimate and approve the cost of any act of policy pursued at the public expense: for instance they prepare all the data for the Budget, which their political head, the Chancellor of the Exchequer, presents year by year to the House of Commons. Three consequences follow from this. Firstly, as all officials receive their salaries from the public purse, it is the Treasury which regulates the conditions under which the officials in all the departments

serve: it has the whip-hand of them. Secondly, as most legislation involves expenditure of some kind, the Treasury has the right to examine all legislative proposals drafted by other departments. And, as if that were not power enough, the importance of the financial aspect of any course of action has led to the growth of a practice by which even a mere proposal involving expenditure is not considered by the Cabinet—the supreme organ of government—unless it has been fully examined beforehand by the Treasury, in concert with the department concerned. Thus the Treasury rather than the House of Commons is nowadays the guardian of the public purse.

### §3. PAYING FOR IT

Some of the lesser Departments of State commonly engage in remunerative projects—the Ministry of Works reconditions historic buildings and charges a fee for admission; there are State forests under departmental control; and the Ordnance Survey is not alone in making a substantial profit on its publications. Public utility services, such as the Central Electricity Board and the B.B.C., are also constructed in such a way that they can recoup themselves by the sale of services so as not to cost the taxpayer anything. (See Chapter XIV, §2.) Most notable example of all, there is the Post Office, which annually earns for the State a profit of about £10,000,000 on gross receipts of about £70,000,000, while rendering invaluable public service, not only through the postal, telegraph, and telephone system (which it is progressively cheapening), but through the provision of Savings Banks and other non-postal facilities.



But from this point of view departments fall into two classes—some are mainly administrative (this class includes the Foreign and Dominions Offices, for instance); others, such as the Defence Departments, the Ministry of Education, and the Ministry of Health, are directly engaged in the maintenance and improvement of State services. The former class needs money for its officials, whose number tends always to increase; the latter very much larger sums to pay for the services themselves. Accordingly, the general problem of public expenditure upon men and things opens up one of the major political issues.

Orthodox financiers of the Gladstonian era used to maintain that taxation should be half direct and half indirect, because direct taxes are paid mostly in proportion to wealth, so that a few rich people contribute more than many poor; whereas indirect taxes levied upon the cost of commodities fall equally heavily upon all users of the commodity taxed, which may be something like tea or sugar, of which a poor family uses nearly as much as a rich one. In any case taxation is more onerous for the poor man, since in order to pay even a little he may have to go without something he really needs, while the rich man, however much he pays, is thereby being deprived of luxuries rather than necessities. But if the poor paid no taxes whatever, so the orthodox argued, they would vote without reserve in favour of the most lavish public expenditure.

Indirect taxes—which produce considerably less than half the national income now—are mostly collected by the Board of Customs and Excise, employing a large staff of minor civil servants. They are familiar to many of us at the ports, where most foreign goods except raw materials are now compelled to pay

import duties or customs. Excise means the levying of similar duties upon certain commodities, not at the ports (for most of them are made at home) but when they come to be used by the public. Beer and tobacco are the most important examples, but the entertainment tax, levied as an additon to the cost of admission to cinemas and theatres, follows the same plan of taxing luxuries which are nevertheless used by poor as well as rich. There is also a heavy tax (about one-half the total cost) on petrol, which not only affects motor-owners directly, but is passed on to millions of others in the increased price of their bus tickets. Another form of taxation, which is levied in a sense directly though not as a percentage on income, is the licence or stamp duty, which has to be paid (usually by a simple Post Office transaction) in order to keep a dog or fire a gun, give a budding solicitor or accountant his articles, and to render a cheque or a receipt valid.

But direct taxation, properly speaking, is controlled by another very large Government Department, the Board of Inland Revenue, with its inspectors and collectors scattered all over the country. These officials require a full annual return to be made by each individual taxpayer showing his income from all sources. As the limit of exemption from payment is as low as £2 12s. per week (£135 per annum) for a single person without dependants, rising to £350 per annum for a man with a wife and two children to support, this means that yearly about nine million persons are due to pay a certain proportion of their income—varying with the number of dependants and the rate (so many shillings in the £) fixed by the Chancellor in his Budget—as their main contribution to the cost of

defence and all other public services. If the income exceeds £2,000 a year there will be surtax to pay in addition; and any property or capital of £2,000 or more is further reduced by estate duty whenever its owner dies. This duty, levied according to a steeply graduated scale, takes at least two-thirds of what a millionaire bequeaths to his heirs and, where land is concerned, may make it necessary for a large part to be sold in order to find the money. Lastly, it should be noted that an Excess Profits Tax of 100 per cent was levied during the war on business profits in excess of those earned by the same business in peace-time, a measure which was continued into the immediate post-war period at the reduced rate of 60 per cent.

Both departments pay their receipts daily into the Government account at the Bank of England, known as the Consolidated Fund, from which nearly all payments for Government expenditure are made. The inflow and outflow do not, of course, invariably correspond, but the Government—which in financial matters means chiefly the all-powerful officials of the Treasury—have several methods of raising temporary loans in the City, quite apart from the large-scale permanent loans, which Parliament authorizes (especially in time of war) and which constitute the National Debt proper. But for our purpose it is more important to notice how large a part of the taxation is returned directly to a section of the community (though not to that section which pays most taxes) in the form of Social Services. Before the war as much was spent in this way as on the service of the National Debt and the upkeep of the Armed Forces put together. These Social Services, the advantages of which to the nation greatly outweigh the disadvantages of high taxation,

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range from Health and Unemployment Insurance and Old Age Pensions, which are administered centrally, to a host of local services for health and education, which the central government subsidizes but does not directly administer. That task belongs to the local authorities, described in the following chapters.

## VIII

### LOCAL GOVERNMENT

#### §1. HISTORICAL

THE most ancient subdivisions of the country—indeed, they are not really subdivisions at all, for they existed long before national unity was achieved—are the shire and the township. From the shire we get the modern county, and there are many of us who still feel a genuine county patriotism, even outside the cricket season. For this is a unit which has never lost reality. The first Kings of all England made the county court, over which the sheriff presided, their chief instrument of local administration. The early Norman Kings likewise used it for military, fiscal, and judicial purposes, and when Parliaments began it was in the county court that the knights of the shire were elected. Thereafter it fell into disrepute, but by the Tudor era the powers of local government had been transferred to a new county organization, namely the justices of the peace meeting in quarter sessions, whom innumerable statutes empowered to levy local taxes and minister to every local need, from the keeping up of bridges to the keeping down of alehouses. This autocratic system of county administration was to last four centuries.

The name of “township,” on the other hand, in its original application to the Anglo-Saxon village, has long ceased to be used—except, perhaps, on antiquated boundary stones. With the coming of Christianity it was supplemented by the term “parish,” for the area

to which one priest and one church ministered commonly coincided with the township. Feudalism, again, introduced a third unit, the manor with its dues and obligations, which likewise tended to conform with pre-existing limits of area. Nevertheless, the village as it re-emerges into the light of (Tudor) day is predominantly democratic in form. Either the manor court survived, in which the tenants of the manor declared what ought to be done in local affairs, or, more usually, the business was transacted by a Parish Vestry, a meeting of all adult male inhabitants which took its name from the natural place of assembly. Here the local officials, notably the Constable and the Overseers of the Poor, were elected year by year, and their names laboriously inscribed in the church registers.

Meanwhile, towns in the modern sense were springing up—centres of trade and industry where a more progressive population developed strong common interests and a desire to free themselves from outside interference. This could be achieved by means of a charter or series of charters, paid for usually in hard cash, with which trading centres would be comparatively well supplied. From the lord of the manor they would buy immunity from his exactions of feudal dues; from the King—more important—they would buy all kinds of privileges, ranging between the holding of a market or fair and the power of trying lawsuits and collecting taxes without the interference of his officers. These charters varied immensely, but a common feature of chartered boroughs was the establishment of their own ruling body or corporation, which in the course of time often became a narrow oligarchy entirely lacking in public

spirit. Such were the corporations which corruptly sold the representation of boroughs in eighteenth-century parliaments.

Reform came in two ways. From about 1750 it was usual for centres of population, especially new centres like Manchester or Birmingham, to ask Parliament to pass Private Acts setting up a local committee for such purposes as lighting, cleansing, or watching the streets, duties which the existing local authority could not or would not carry out. These special Statutory Authorities became very numerous, and provided the pattern for a type of general reform (i.e. reforms enacted, not for one district at a time, but for the whole country) which began with the new Poor Law of 1834. Since the reign of Elizabeth poor relief had been administered by the overseers and at the expense of each parish, subject to the supervision of quarter sessions. To tighten up the system and reduce expenditure the Act of 1834 established Boards of Guardians elected by the ratepayers, who administered relief under the auspices of a new Government department. The Boards, however, were not given control of a single parish, but of a specially created subdivision of the county, known as the Poor Law Union. During the ensuing forty years this method was extensively followed, until England had been carved up into Highway, Burial, Sanitary, and School Board Districts, each of which, like the Poor Law Union, acted for an area of different boundaries.

The reason may have been that Parliament was at bottom reluctant to give large powers to any one subordinate authority. This is borne out by the rather grudging way in which the other and more sweeping type of reform was inaugurated. The Municipal

Reform Act of 1835 did make an immense change by providing the uniform, democratic system of borough government, which still obtains; but apart from elementary powers of police, lighting and sanitation, the functions of a modern municipality were all conferred step by step by much later legislation. Moreover, it was not until 1888 that the still more undemocratic though less corrupt system of county government was likewise swept away, when the administrative powers of the justices at quarter sessions, enumerated under sixteen heads, were likewise transferred to a democratically elected county council, the form of which remains substantially unaltered to-day.

The last big change came in 1894 and had two distinct aspects. The county, the size of which commonly renders it an unwieldy unit of administration, was subdivided into Urban and Rural Districts, each with its council acting in certain respects under the County Council's supervision, and the Rural District was to be further subdivided for small matters into Parish Councils. At the same time a start was made in the long process of abolishing other specially created subdivisions, poor law unions and sanitary districts being to some extent merged in the new creations. School Board Districts followed suit in 1902 and the abolition of Boards of Guardians in 1929-30 completed the important process of concentrating powers of local self-government in the hands of a few fully representative bodies, which now administer practically all statutes dealing with local affairs.

## §2. THE LOCAL COUNCILS OF TO-DAY

As regards the geographical area over which it holds



sway, the largest local authority is undoubtedly the council of a rural county, such as Devonshire. We specify "rural" because industrial areas inside the county are to a large extent—as we shall explain in a moment—withdrawn from the direct control of the County Council. Nevertheless, we shall leave the County Council to be discussed later for two reasons: rural England has, on the average, a rather less vigorous political life, and the work of the councils is therefore not quite so interesting; and the readers of this book will be mostly town dwellers.

The form of government prevailing in our town may belong to any of three types, and the size of its population will mainly determine which. If it has more than 50,000 inhabitants it will probably be a county borough, which means that the Borough Council is entirely immune from the intervention of the council of the county in which the borough happens to be situated: such a borough constitutes an administrative county of its own. More than eighty of these county boroughs having been established since 1888, admission to the rank is now conceded only to towns with a population of at least 100,000. Next there is the municipal borough, a category into which our town, if it is ancient or has a population of more than 20,000 (and less than 50,000), is sure to fall. Municipal boroughs are of several different types—some are called cities, which usually betokens the seat of a bishop; many, but not all, have their separate Quarter Sessions and Recorder; and the smallest, with a population of less than 10,000 but an ancient dignity to preserve them from entire extinction, differ from the rest in having no coroner even of their own. But all municipal boroughs have two features in common,

one of which is their form of government—the Town Council—and the other their dependence in some degree upon the County Council. All municipal boroughs elect county councillors, but the services rendered by the County Council vary inversely with the population, though since 1930 even the larger boroughs have been deprived successively of control of their poor relief, education, and health services.

Lastly, our town, if it represents a new growth of population or is a very small market town which was never chartered in ancient days as a borough, may be governed by an Urban District Council. If so, it will differ from a municipal borough, broadly speaking, in two ways—in dignity, for it will have no mayor and aldermen, only councillors; and in authority, since it will not only have its police provided by the County Council (as have the boroughs since 1947), but the County Council will have wide powers of control, such as the auditing of its accounts and the fixing of its boundaries. This last is an important matter, since every urban district aspires to extend its boundaries, increase its population, and petition the Crown for incorporation as a borough.

Municipal boroughs likewise have their aspirations to the rank of county borough; but as regards the general system all boroughs are sufficiently similar to be grouped together. All parliamentary voters are entitled to vote in council elections, held in each ward—the electoral division of the town—annually; but each ward has three representatives on the Council, who sit for three years, so that the annual contest is for the return of one member only. These councillors, however, do not constitute the whole council, for ever since 1835 the law has required them to nominate a

body of aldermen, one-third as numerous as themselves and holding office twice as long. This was intended to add to the council men of high position who would not condescend to a popular election, but in practice the councillors usually choose new aldermen—this election is held just after the council elections—by promoting senior members of their own body to fill the vacancies. Lastly, there is the mayor, elected annually by the council to preside over its deliberations. In those deliberations his office forbids him to take a partisan share, but he represents the town on all official occasions, entertains lavishly at the public—and his own—expense, and is automatically made a justice of the peace for the borough during his year of office and one following year. The actual work of the Borough Council we will consider separately, noting only that the U.D.C. of a progressive neighbourhood, despite its inferiority of status, can nowadays obtain almost all the powers of a borough.

Turning now to rural England, we find that the main authority is the County Council, composed of chairman, aldermen, and councillors, elected by the ratepayers in their various electoral districts. This differs from a Borough Council in three respects. All the councillors are elected at a single triennial election, so there is one to each district, who is much more of a local spokesman than is the representative of a ward in a town. Secondly, the county aldermen, thanks to lingering aristocratic traditions, are more often chosen from outside the council. And thirdly, the chairman is less of a figurehead and often the moving spirit of the council's activities, a difference which may be partly explained by the existence of the Lord Lieutenant, who represents the county on ceremonial

occasions. An important difference of another kind is that, whereas every county borough can control its own police through its Watch Committee, the county police force is ruled by a Joint Committee, representing the County Council and the justices of the peace, whose remaining administrative powers it has usurped.

A County Council, indeed, labours under certain disadvantages. Distance makes frequent meetings inconvenient; the sparse population of the countryside and its poverty (together with some legal disabilities) deter the county councillors from launching out upon expensive projects; and country dwellers are naturally conservative. Moreover, although the present tendency is to increase the powers of the county rather than those of the district authorities, Rural, as well as Urban, District Councils inevitably discharge some functions which would otherwise be allotted to the County Council; and even the R.D.C. is sometimes a very active subordinate. It is strong inasmuch as its members—usually one to each village—represent collectively a small area, with the needs of which they are thoroughly conversant, the dominant element consisting usually of farmers. Financially, on the other hand, the R.D.C. is weak, since it is allowed to levy only a small rate for its own use and is not encouraged to recoup itself by schemes of municipal trading: but the position has lately been improved by relieving the R.D.C. (though not the U.D.C.) of any liability for the upkeep of the roads. This will enable it to spend more on such objects as a local water supply.

Under the R.D.C. there is still the Parish Council, which must be elected in every parish the population of which exceeds 300. Below that figure a Parish

Meeting takes its place for the management of parochial charities and other communal property, but for any other activities even the tiniest parish must elect a council. Street lighting, the upkeep of foot-paths, and the provision of a children's playing field are three of the duties which a Parish Council commonly undertakes. There are many other things which it can easily get permission to do, but a rural parish, by the time it has paid its county and district rates, is usually not eager to seek opportunities for further communal expenditure.

### §3. HOW LOCAL COUNCILS DO THEIR WORK

The possible activities of a major local council are nowadays innumerable. Apart from the Acts of 1835, 1888, and 1894, on which the system is based, a whole series of statutes (especially, perhaps, in the sphere of public health) heaps new duties upon them year by year. In addition, there are many Adoptive Acts, which empower local authorities to undertake certain extra functions, if they choose. As if this were not enough, almost every major authority has also certain powers of its own, obtained by means of a Local Act or Acts, which it has induced Parliament to pass for its sole benefit. Accordingly, these activities must be reserved for a separate chapter, while we examine first certain common features in the way in which they are carried on.

Firstly, then, it is important to observe that all local authorities are strictly subordinate authorities. Everything they do must be brought within the four corners of some Act of Parliament, or it is illegal, and the High Court, if appealed to, as it is sure to be sooner or later,

will formally declare the action to be *ultra vires*. Conversely, if any Act requires them to do something, and they omit to do it, the High Court will order its performance by a writ of Mandamus. Furthermore, one of the largest Government departments, the Ministry of Health, is constantly engaged in the task of supervising local authorities, advising, exhorting, inspecting, and—most vital of all—controlling their finances. Indeed, in the important matter of making by-laws two sanctions are applied, for every local regulation of this kind must be both based upon a statute and authorized by the appropriate Ministry.

The fact that they are subordinate deprives the local councils of the glamour which attaches to Westminster and partly explains a second feature—the comparative insignificance of party. In many of the large towns there is, indeed, a strong opposition between a Conservative side, which wishes to keep down local expenditure in the interests of the wealthier rate-payers, and a Labour or Socialist side, the policy of which is to use the rates to benefit the masses. In some others elections are fought between the two political parties as a kind of rehearsal of a General Election, and there also strong feelings may be aroused. Nevertheless, at least one-third of the seats normally go uncontested; and inside the councils voting does not invariably follow party lines. The office of mayor, for example, or a seat on the aldermanic bench may often go by rotation of some kind to a member of a party which happens to be in the minority.

The weakness of party, in turn, is closely connected with the prevalent system of government by committee. In a borough the council itself meets usually once a month, a County Council perhaps once a quarter,

and these meetings are formal and public. But they are largely devoted to the reception of reports from committees, which have been printed and circulated to members, and are now to be approved. Any member may then question the past actions or future intentions of a particular committee; its chairman will defend its conduct; and the vote of the whole council is legally decisive. It is the practice, however, except in very contentious matters, to accept what the committee does: hence the paramount importance of the committees, to one or two of which each member of the council will be assigned by vote of the council, and of the chairman, whom each committee elects for itself. Parties are represented on committees in rough proportion to their strength in the council as a whole, and, where party feeling runs high, each chairman will represent the dominant party: but he is often chosen merely as being a particularly keen and suitable councillor. The committees meet more frequently and privately than the council, and it is there that the business is mainly transacted, under the guidance (and not merely the presidency) of the chairman and with the expert assistance of an official.

This brings us to the last point. Councillors, after all, are unpaid amateurs, serving their constituents in what is often their scanty leisure, and—in comparison with Members of Parliament, at least—are not, on the average, men of unusually wide experience or transcendent ability. Accordingly, a wise committee usually defers to the chairman, and a wise chairman to the expert. The highest official of a council is its Clerk, who is primarily a legal expert versed in the complicated legislation which governs the council's activities; but under his general authority there are a

number of other usually well-paid heads of departments—the Chief Constable, the Medical Officer, the Chief Education Officer, the Surveyor, etc. These correspond roughly to the number of major committees: they know their work, they know their subordinate staff, and they have a professional interest in producing the best possible results. Apart from broad questions of policy, therefore, which do not often arise, these officials, so little known to the general public, are really the chief factor in ensuring good local government. Thus Professor Lowell,

after studying a number of English cities, was led to imagine that the excellence of municipal government was very roughly proportional to the influence of the permanent officials. That influence, be it observed, is by no means confined to matters where purely expert knowledge is required. By far the greater part of their work is administrative, and it is not too much to say that the administration of a typical English borough is conducted by the officials. . . . It is not the business of the committees of a borough council to work the departments, but to see that they are properly worked.<sup>1</sup>

What is here written of boroughs is no less true of counties, where greater distances may leave the official in even more unfettered control of his department.

<sup>1</sup> A. L. Lowell: *Government of England*, II, p. 179.



## IX

### LOCAL GOVERNMENT SERVICES

#### §I. A MATTER OF FINANCE

THE fundamental power of a local authority has always been the power to levy a local tax, paid by every householder, either directly or as an addition to his rent, the amount of which is proportionate to the value of his house. Suppose a house is valued at £20 *per annum*: if the local tax—the rates, as they are called—is declared one year to be “10 shillings in the £,” then the householder in question will have to contribute £10. In old days poor relief was the chief object on which rates had to be spent, so there was a great outcry among the well-to-do if rates were high; and until quite recently most local authorities tried to keep their total expenditure, including such items as lighting and cleaning the streets, as low as possible. During the last half-century there has been a gradual change of attitude, from which have sprung many, perhaps most, of the amenities that we enjoy as citizens. These amenities, in the opinion of most of us, are immensely worth while: but it is important to remember that the new municipal park or the extension to the local library probably means that every householder has a little bit less of his income free to spend on himself and his family as he pleases. Thus in 1875 the rates amounted to £19,000,000 (less than £1 a head), whereas in 1938 they stood at £191,000,000 (more than £4 10s. a head).

There is, however, one important section of local

government activities which may cost the ratepayer nothing. We allude to municipal trading enterprises —“ municipal” because in a county area distance acts as a deterrent, not to mention the rigorous rule by which all expenditure above £50 requires the direct sanction of the Finance Committee. These enterprises usually began with the establishment, or the taking over from private hands, of the waterworks, water being supplied to every house for a fixed charge known as the water rate. But they extended, soon after the middle of the nineteenth century, to the supplying of light (first gas, then electricity) on the one hand, and of local transport (trams, later buses) on the other. In all these cases there are two strong arguments in favour of municipal ownership. Free competition among private firms is scarcely possible, since we could not have four water-mains or even four rival sets of buses running along the same street; and it is eminently in the public interest that the supply should be good and cheap. Thus the possibility of moving a part of the population from a slum area in the centre of the town to the outskirts may depend upon the provision of cheap transport, running on a margin of profit which a private firm would not consider adequate. In recent years, however, this municipal trading has been extended further and further; and when it comes to tea-rooms and golf-courses there are many people who argue that private firms, competing with one another, will do the thing better (see Chapter XIV, §3).

Municipal trade may, of course, be conducted at a loss to the ratepayer; but we must pass on to consider other means, besides hypothetical commercial profits, by which the rates are supplemented. One of these,

in a sense, is the flotation of loans. Every new enterprise—a big rehousing scheme, for instance—is financed by borrowing money from the general public, and the fact that no such stock can be issued without the express sanction of the Ministry of Health is the most important of the ways in which that department (formerly the Local Government Board) keeps the whip hand over all local authorities. At the present moment local indebtedness would take the whole proceeds of the rates for five years to repay; but as local bonds—unlike the National Debt—do require to be paid off in a short term of years, the system may be said to provide a large sum of ready cash rather than any long-term relief to the ratepayer.

Grants-in-aid, however, are a real stand-by—and an ingenious political device into the bargain. We may illustrate their working from the case of the police, which happens to be the earliest. Since 1835 every borough, and since 1856 every county, has been required to maintain a professional police force in place of the old amateur parish constables. But, apart from the Metropolitan Police, each of these forces was independent of the Home Office, whose function, it will be remembered, is nevertheless to maintain law and order throughout the country. The solution to the problem was found in an offer by the Government to meet from national resources one-half the cost of clothing and wages for every local force which reached a satisfactory standard of efficiency. No Watch Committee and no County Joint Committee dares to confront the ratepayers with an unnecessary loss, the consequence being that the word of His Majesty's Inspectors of Constabulary, who can give or withhold the certificate of efficiency, is law throughout

the police forces of the country. The same system of grants-in-aid, varying in proportion to the rate-borne expenditure, applies to other local services, such as housing and education.

Finally, we must notice that in 1929, when Parliament exempted industrial property from three-quarters of its former rate payments, it compensated the local authorities by instituting a Block Grant. This amounts to £40,000,000 *per annum*, which the Exchequer distributes to the Councils roughly in proportion to population, but with some allowance for special local needs.

## §2. PUBLIC HEALTH

One of the two major problems of life in a large town, how to obtain security of person and property in the presence of turbulent elements of society, has been almost completely solved by the maintenance of an efficient police force—almost, for it is notorious that in certain poor districts of our largest towns primitive violence is not wholly kept at bay. The other problem, that of security from ill-health and disease, which were rife in the industrial areas a century ago, is still in process of solution. To take a simple example, the cleansing of the streets and removal of house-refuse, which are scarcely a problem at all in a small village, have taxed the ingenuity of a town-dwelling population to the utmost: new methods of paving the streets have rid us of dust but not of petrol fumes, nor does the zinc dust-bin tipped into a cart represent, we may hope, the last word in the disposal of rubbish.

From caring for the healthiness of the streets it is

a simple step to caring for the healthiness of the people who walk in them. The first municipal wash-house was established in Liverpool more than a century ago, but as regards cleanliness the main line of advance has been through the cheap provision of water in every home. Since 1875 every borough has been required to appoint a Medical Officer of Health, who keeps a close watch upon the local incidence of disease—he can, for instance, order schools to be closed during an epidemic. All cases of infectious disease must be notified to him: he can insist upon the removal of patients to a fever hospital, belonging to the town; and for other diseases a progressive local authority may have its own general hospital, to which patients can go if they wish. The provision of free doctors and medicine is, as we have seen, a national and not a local service, governed by the Insurance Act of 1911, under which nearly all workers are insured against sickness, partly at their own expense. But the M.O.H. has a general oversight of the public health of his locality; and he is assisted by other officials, such as those who examine the quality of meat to make sure that it is untainted, and those who see that local regulations are obeyed in places of public entertainment, which must be adequately supplied with fresh air and—for safety of a different kind—proper corridors and exits in case of fire.

Public health, however, requires positive as well as negative action. Parks and recreation grounds have been well described as “the lungs of a great city.” Something of the kind began to be provided in most industrial areas in the 'fifties and 'sixties, but there have been great developments in recent years. Provision for games, as distinct from ornamental walks, is now more generous, extending even to the erection

of quite elaborate toys for the smaller children to play with. Some large towns, encouraged by transport improvements, have bought considerable stretches of country beyond their boundaries, to which the citizens may freely resort; and parish councils, as we have seen, are getting hold of cricket fields for village children, whose liberty to wander where they will is frequently less than appears. Swimming baths, run by an enterprising council at less than economic charges, also bring in huge dividends of physical well-being.

Nevertheless, it is little use providing healthy recreation for citizens who must return, early or late, to unhealthy homes. Bad housing is perhaps the worst legacy alike of the Industrial Revolution and its turmoil in our towns and of squirearchical somnolence in our countryside. In this all-important matter local authorities have now a threefold power. They may condemn to destruction those houses which they consider to be quite unfit for human habitation. Under Town Planning Acts and other legislation they may decide the general lay-out of developing areas and require every new building to conform within wide limits to their standards of safety, healthiness, and comely design. Thirdly, they may (with the sanction of the Ministry of Health) raise loans and build working-class houses at least themselves, and are encouraged to do so by a Government subsidy towards the cost of each new house built to reduce slums and overcrowding. This subsidy is also available for all kinds of housing construction to meet the post-war shortage.

The powers seem large enough, but the results up to the war were rather meagre. On the one hand we have to remember that the area already built on, and built on badly, is enormous, and that to pull down

existing property is a very expensive business. On the other hand new houses for the working class, especially if built reasonably near their places of work, are so expensive that private firms will not build them, and when the local authority builds for itself it has to let the houses, very often, at an uneconomic rent, that is a rent which does not repay the capital expenditure. This raises the question, can it be right for one section of the community to have its rent artificially reduced by means of an increase in the rates paid by other sections? The post-war housing problem, however, is so grave that questions of economic rents seem of secondary importance as compared with the urgency of getting new houses built somehow, and the subject is of direct personal interest to a far larger part of the population than ever before. The Blitz has given the local authorities a great opportunity as well as a great burden of responsibility, and in the next few years they are likely to be judged more by their skill in carrying out the Government's housing policy than by any other single aspect of their work.

### §3. POOR RELIEF

Looking after the poor, that is to say the class once technically known as paupers, people who for one reason or another fail to support themselves, was organized at first as a parochial system. Then, as we have seen, in 1834 the Boards of Guardians were established, which not only acted each for a Union of several parishes but acted each under the orders of a Poor Law department (with various names) at Whitehall. For nearly eighty years the watchword was economy. Guardians were elected by ratepayers to

keep the poor rate low; the unfortunate paupers had no vote and their grievances went unheeded; and the Poor Law department compelled obedience to its orders by "surcharging" any extravagance, which meant that, if Guardians spent more than was authorized, they had to pay back what had been spent out of their own pockets. This grim régime was first seriously modified by the establishment of old age pensions for one large group of so-called paupers in 1908, and then by the National Insurance Act of 1911, which began the practice (since widely extended) of insuring workers against unemployment by means of a fund, composed of contributions from employees, employers and the State, which will support them when temporarily out of work.

A second major change was the abolition of Boards of Guardians in 1929, a change that is characteristic of a more democratic era when the unemployed have the vote and the despised name of pauper has been officially suppressed. Local poor relief is now administered by the Public Assistance Committee of a County or County Borough Council, acting in rural areas with the help of a local "Guardians Committee" which knows the often complicated circumstances of applicants. Once the Committee or its representative has been persuaded that an applicant really needs help and is not a miser or shirker of some sort (or a person for whom the Board should properly provide—see below, p. 118), relief will be provided from the rates, possibly in the shape of an allowance of money, more probably by admission to some kind of public institution. There is still the casual ward, where regular tramps and others who take the road are received for the night, lodged, and fed in return for



some hours of manual work in the morning, before they set out on their daily pilgrimage to the next night's place of refuge. Then most authorities have homes, sometimes quite comfortable and usually well-run, to which the friendless aged and uncared-for children may be assigned. Their establishment, and that of poor law hospitals and asylums, where the sick poor nowadays receive expert treatment, mark an enormous advance upon the old workhouses, where all sorts and conditions of men were herded together in the not very distant past.

A third change, which was carried out by stages under an Act passed in 1934, was necessitated by the fact that unemployment remained obstinately fixed at a deplorably high figure of one and a half millions. Most wage-earners under 65 years of age were, indeed, compulsorily insured against unemployment, but the normal period for which benefit could be drawn was only six months or, in the case of workers who had in the past contributed much and drawn little, an absolute maximum of twelve months. When insurance benefits ceased the poor law was the only resort: how could a local authority administer that law when the number of applicants ran into four or five figures and local political leaders pressed for a more generous interpretation of the rules? Moreover, in the Special Areas (such as Tyneside and South Wales), which at this time contained one-third of a million unemployed, the local industry was dead and the incidence of unemployment in inverse proportion to the present-day rateable value of the area. Accordingly, it was decided to make the relief of the able-bodied unemployed, in so far as insurance benefit was not available, a national responsibility, and the local

element in the administration was to be confined to the membership of advisory committees, which still assist in the adjustment of relief in accordance with such factors as local rents and (in country districts) local customs about allowances in kind and other matters.

Thus the main responsibility for the long-term unemployed and their dependants (except as regards medical needs) has been transferred to the centralized Assistance Board, a body of officials whose decisions cannot be challenged piecemeal, even in Parliament. In some respects the new Board tightened up administration (e.g. it enforced a Household Means Test requiring persons in employment to contribute to the support of unemployed members of their own households—a very thorny problem), but it is only fair to notice that in other points, such as allowing the unemployed to earn small casual sums for themselves without forfeiture of relief, the new policy is more generous than the old. Their general scale of relief amounts roughly to 31s. a week for a householder and his wife; from 15s. 6d. to 18s. for other independent persons of full age; and from 6s. to 9s. for every dependent child under sixteen, plus an allowance for rent. In spite of a rise in the scale, total expenditure declined during the war years, when the rapid expansion of employment transformed conditions in the Special Areas, and there was a widespread hope that after the war Social Insurance would render poor relief in the old sense superfluous (see below, p. 190).

#### §4. EDUCATION

There are many other services in which the State and the local authority collaborate—every time a new

by-pass road is made we are reminded of this, since its construction depends upon a bargain being struck between the Ministry of Transport and the County Council—but none is more important or attracts more attention than education. If we omit private and preparatory schools at one end of the scale and the large public schools (expensive and perhaps influential, but numerically insignificant) at the other, our schools are all—in a different sense of the word—public. Elementary (primary) schools have been so since 1870, though the typical “Board School” of that era bore very little resemblance to the scientific structures with ample playgrounds built by the local authorities nowadays. Secondary schools under public control date only from the Act of 1902, under which new local schools have been founded, while many older grammar schools have passed more or less into the hands of a local authority, which now helps to finance them. After 1919 a third type of school emerged between the other two, the separate Senior School or (selective) Central School, to which those elementary school pupils who did not proceed to Secondary Schools were drafted at the age of eleven—a system which was more readily adopted in urban than in scattered rural areas. This change was followed in 1944 by a new Education Act, making great administrative changes and proclaiming the principle of “secondary education for all.”

The public Primary School (as it is called in the new Act) opens its doors to all at the age of five, and an increasing proportion of its pupils will already have been in attendance for a year or two at the optional Nursery School. As from April 1947 education is compulsory up to the age of fifteen, a figure which is eventually to be raised to sixteen. The years after

eleven are to be spent in the Secondary School, a term which the new law uses to embrace Junior Technical Colleges, providing mainly technical courses, and Modern Schools, with a bias towards practical work, as well as the older type of secondary school, having the more academic bias suggested by the name Grammar School, which so many of them have always borne. For the less bookish type of pupil, whole-time education may be expected to stop at fifteen or sixteen; but a new form of continuation school, the County College, is to be set up to provide the young worker with further education up to the age of eighteen, and it will be compulsory for all employers to release employees to attend college for one day a week or its equivalent. For the more bookish type the Sixth Form of the secondary (grammar) school will provide whole-time schooling to about the same age. At none of these stages is any fee chargeable in a local authority's schools. University education is not free, but the local authorities provide scholarships, not only to the universities but to technical colleges and schools of art, and the provincial universities are largely subsidized by the big towns in their neighbourhood to provide instruction on cheaper terms than Oxford and Cambridge can (or rather will) offer.

In sum, we may say that the educational ladder is now a broad one, offering a full reward to those who have the ability and the resolve to climb it. The chief remaining handicap of poverty is that poor parents may be unable to dispense with the earnings of their children between the ages of fifteen or sixteen and, say, twenty-one, a loss which time spent in higher education necessarily involves.

The system of control is less easily explained. What

the ratepayer contributes to the schools is controlled by the Education Committee of the local County or County Borough Council (Local Education Authority) and its Chief Education Officer. But about one-half of the money comes from the national taxes through the Ministry of Education, which allocates grants to each L.E.A. for a fixed proportion of its expenditure on different educational objects, so long as its Inspectors (H.M.I.'s) are satisfied that the schools are efficiently conducted. Moreover, one-third of the primary schools were originally founded by voluntary bodies (usually Churches), which in many cases still pay for the upkeep of the buildings in return for some control over the religious instruction given on their premises; while a few of the older grammar schools, having large endowments or a good income from fees, maintain a part of their ancient independence by receiving only a "direct grant" from the Ministry of Education and having no dealings with the L.E.A. But broadly speaking the newer schools, both primary and secondary, are under full local control; and those which remain outside local control tend to diminish in number.

This is reasonable enough, for the local schools to-day are producing the local population of to-morrow. By teaching ideas of cleanliness and hygiene—to say nothing of the school medical and dental services—they supplement the work of the local Medical Officer. By instilling good discipline they reduce the danger of panicking crowds and the monstrous "toll of the roads," as we so fatalistically describe motor accidents. By offering ideals as well as ideas they may bring up citizens who will wish to leave their city better than they found it.

But the work of local government in education does not end at the school gates. Museums and art galleries, such as every large town now maintains, do much and might do more to widen the outlook of the town-bred child. And one of the biggest improvements of recent years, affecting town and country alike, has been the removal of the restriction on public libraries, which formerly were not allowed to spend more than the produce of a penny rate. That is changed now, and the county library with varied supplies of good literature is reaching every village. But let us rather encourage the reader to kill two birds with one stone—to visit his or her local library and reflect upon the wealth, beyond the avarice of kings a few centuries ago, which it makes available to the poorest; and while there to read something of those many activities and achievements of English local self-government for which this little book lacks space.

# X

## THE GOVERNMENT OF LONDON

### §1. THE ORGANIZATION

THERE are many reasons why the local government of London merits separate treatment. The capital of a vast empire has a glamour all its own. A conglomeration of more than 8,000,000 souls (the present population of Greater London) offers peculiar problems to the civic legislator. The ancient City, embedded in the heart of this modern urban area, preserves forms and ceremonies from our remotest history. Above all, there is the awkward fact that the government of London even to-day is legally different from the types of provincial self-government which we have been studying. Some readers of this book no doubt live in London: but whether we live there or not the metropolis should interest and concern us all.

A little more than a hundred years ago London consisted of two principal urban areas, the City of London being the commercial and Westminster the political capital, surrounded by a large number of populous suburban parishes, each governed by a parish Vestry, and, perhaps, a special statutory authority for policing or lighting the streets. The result was chaos and corruption, which were first checked in 1829, when the Metropolitan Police was established under command of a Commissioner appointed by the Home Office, for the upkeep of which the inhabitants of the metropolis paid a rate, but in the control of which they had no share. Then

in 1855 a Metropolitan Board of Works was instituted, which started the existing main drainage system along the Embankment but achieved little else—perhaps because its members were elected, not by a popular vote, but indirectly through the old Vestries. These matters rested for another generation, until at the time of the enactment of the general County Councils Act in 1888 a special law set up a County Council for London.

The "L.C.C.," as it is familiarly called, bears only a general resemblance to other County Councils, there being three important differences. It is organized differently, for the electoral divisions are those used in the return of Members of Parliament for the Metropolis, the county councillors being twice as numerous; the aldermen are in the proportion of one to six, instead of one to three, councillors; and the Chairman of the L.C.C. is a very dignified president with no control of policy. Secondly, there is an all-important geographical difference. An ordinary County Council receives authority once and for all over an ancient county area, minus its county boroughs: the L.C.C. received authority over the "Administrative County of London," the area for which the Metropolitan Board of Works chanced to have jurisdiction in the middle of the nineteenth century. Consequently, the spread of population has resulted in the curious anomaly that the London County Council is restricted nowadays to an inner region in which about one-half of those who may fairly be termed Londoners reside. The third difference is also a matter of limitation. The L.C.C. inherited the functions of the old Board of Works as well as acquiring those of a County Council; but London, with its special history and special



problems, still contains a large variety of other governing authorities, so that the L.C.C., in some respects more powerful, is in others much less powerful than other councils. The illustration of the police will readily occur to the reader.

In that instance the restriction may be justified on the ground that the maintenance of order in the capital is a national rather than a local responsibility: but only conservative tenacity and the influence of great wealth can account for the fact that the City of London—which had already contrived to keep its own police—remains largely outside the jurisdiction of the L.C.C. The City is, indeed, more democratically ruled than might be supposed by those who see only the façade, as it were, of Lord Mayor and Sheriffs, the high dignitaries chosen yearly by liverymen of the ancient City companies, and know that admission to the livery, which often controls huge funds bequeathed to their long-dead handicraft centuries ago by Tailors and Haberdashers who were really tailors and outfitters, is obtainable nowadays mainly by purchase. But the Court of Common Council, which in fact rules the City, is composed of councillors, elected annually by the ratepayers of each ward; aldermen, similarly elected, but for life; and the Lord Mayor, chosen indeed by the Livery Companies, but in practice always a senior alderman.

The fact remains, however, that the City, which is the owner of much valuable land and contains, in its one square mile, some of the wealthiest rateable property in the world, is an institution which needs some justifying. In a few matters (education and fires, for instance) it submits to the L.C.C., and there has long been a complicated arrangement by which the

City Corporation, having almost no poor of its own—since few but caretakers now reside within the city—contributes towards the poor relief funds of the metropolis at large. But for most subjects, which come under local control at all, it has independent powers inside its boundaries. And in one or two instances—the holding of markets is the most important—the City has jurisdiction also for a varying number of miles outside.

In 1899 another major innovation was made, when the parish Vestries and similar antiquated organizations were swept away, and all London outside the City was subdivided into twenty-eight new municipal boroughs, one of which, namely Westminster, was shortly afterwards raised to the status of a city. In organization they resemble other boroughs (except that the aldermen are 1 : 6), but their powers—a very complicated question—are rather smaller, because they are inevitably overshadowed by the L.C.C. But we may remark in passing that the rates for all local services are collected by them, about one-half of the proceeds being subsequently transferred to the L.C.C. Treasurer's accounts.

During the twentieth century there has been a steady increase of special London authorities—six new ones have appeared since 1918—though the general local authorities remain the same. A noticeable feature is that the special authorities often cover special areas. Thus the Metropolitan Water Board (1902) serves many districts outside the Administrative County, which happened to be served by the eight private companies whose work it inherited. The Port of London Authority, which replaced the ancient City in one of its oldest functions in 1909, embraces the

whole tidal course of the river from Teddington to the Nore. As for the most notable recent creation, the London Passenger Transport Board, its control of all public conveyances (except main-line trains) extends over an area seventeen times as large as the Administrative County. But the functions of these special authorities, some of whose members are usually nominated by the Government and some by the L.C.C., are for the most part self-evident (see also p. 185).

## §2. THE WORK OF THE L.C.C.

The work of the L.C.C. differs from that of other councils in two respects. One is the close party organization of Municipal Reformers (conservative, favouring moderation) and Labour (heirs to the party formerly known as Progressives, and advocates of a forward policy). This extends to every committee, the parties being represented in strict accordance with their relative strength in the Chamber as a whole; and the chairmen of committees, acting under an official "Leader of the Council," form a regular Cabinet which decides the policy to be pursued by the Council over the three-year period between elections. As in other councils, the main business is transacted in committees, which are so numerous that each member of the L.C.C. is usually assigned to only one of them, while the weekly meetings of the whole Council of 130 members serve for full-dress debates now and then and the mechanical registering of decisions by majority vote of the larger party.

The other distinctive feature of the L.C.C. is the size of its operations. The visitor to the magnificent new County Hall feels that he is entering a parliament

house: it is only when he listens to a debate, which often turns on the promotion of a Private Bill to secure some new powers, that he realizes the L.C.C. to be strictly a parliamentary creation. His forgetfulness is the more excusable as the annual income of the L.C.C. exceeds the revenue of a European Power like Switzerland or Norway, and its staff of 72,000 employees is comparable in size with the peace-time personnel of our own Royal Navy. The magnitude of its operations is, as a matter of fact, both a hindrance and a help—a hindrance in such matters as main drainage, a couple of miles of new sewers having to be fitted in every year; a help in the case of hospitals and clinics, because the service of an enormous population have made it possible to give specialized treatment at particular centres for special ailments.

In the half-century of its existence the achievements of the Council have been enormous. When it started work the condition of London compared very unfavourably with that of other large towns. Members of both parties were conscious of this, and they have had enthusiastic Clerks of the Council and other officials to help establish a tradition of service to the community; so the alternations of party have not necessarily retarded progress. This was particularly true of the period following the war of 1914-18, of which one of the Council's own publications declares that

It soon became apparent that in all classes of the community there was a new outlook on matters affecting the life and happiness of the people. The old standards had in many instances been swept aside, and in almost every aspect of municipal life the old problems were regarded with new eyes. The years that followed saw not only the passing of legislation conferring additional powers and

imposing additional duties upon local authorities in respect of housing, health, public assistance, etc., but the further development of public services under existing powers.<sup>1</sup>

We have not space to mention more than two or three typical activities. The most conspicuous, in a sense, is housing, a problem which London faces under peculiar difficulties, for overcrowding is here an ancient and widespread evil, due to the very high value of land in those central districts of the capital, where many people wish to live because they find their work there. Two solutions have been attempted. One is the erection, on central sites from which slum property has been cleared, of huge blocks of flats, five or six storeys high, which will provide a lot of accommodation of an up-to-date type on a small area of ground. The other method involves the purchase of estates in the outer suburbs, quite outside the Administrative County, where cottages with gardens can be erected comparatively cheaply for the former denizens of the slums. Of this Becontree in Essex, a veritable new town of 112,000 inhabitants, is a famous example. Great difficulties have to be surmounted, quite apart from the cost of these large-scale operations—some people do not like being perched aloft in a flat; others cannot get work anywhere near a cottage estate and find bus or train fares to town an overwhelming item in their slender budgets. In 1933, indeed, the L.C.C. approved a gigantic 'Ten Years' Plan to tackle the problem of slums once and for all, as it was hoped, by shifting (within the period named) no fewer than a quarter of a million people: but the war, besides suspending its operation, created a new shortage of

<sup>1</sup> *Twenty-five Years of London Government* (1935), p. 7.

houses, the dimensions of which correspond to London's position as the premier target of German air attack.

In the sphere of education the L.C.C. works on the same lines as other authorities, but on a larger scale. It is much too soon to attempt to describe the reorganization which will be required by the 1944 Education Act, though it is probable that London will try the experiment of huge multilateral schools, combining all three forms of secondary education under a single roof. In 1935 the elementary schools alone contained more than 90 per cent of all London's schoolchildren, so that improvement in their buildings and equipment—all the central schools, all grass playing-fields, and nearly all practical workrooms were creations of the preceding twenty-five years—is of immense importance. During the same period the number of pupils at the Council's secondary schools, and the money expended on scholarships or "special places" to maintain the poorer pupils at those schools, had both approximately doubled. Technical schools also became more numerous, and the new buildings of London University benefited to the amount of £450,000 by the enlightened generosity of the L.C.C. But perhaps the greatest advance was in the work of school doctors and dentists, who attended every elementary school pupil free of charge: with the help of regular physical training for the fit and special open-air schools for the unfit they literally transformed the physique and appearance of London's children. Where 96 per cent of scholarship children suffered from bad teeth in 1900, only 4 per cent suffered a generation later.

The upkeep and extension of parks and open spaces is another of the Council's activities in which we can

all take an interest. The total area increases at the rate of about 1 per cent per annum, one of the biggest pre-war acquisitions being Ken Wood; but the provision for games, especially football and lawn tennis, has gone ahead much faster. During recent years the L.C.C. has been agitating with some success for the maintenance of a "green belt" round the boundaries of the present built-up area, so that Londoners may enjoy for all time more generous opportunities for recreation.

For a final example we may take the newest service, Public Assistance, transferred from the hands of the Boards of Guardians in 1930. About 100,000 persons were then receiving outdoor relief, at an average cost per head of £20 a year, though the establishment of the centralized Assistance Board has since caused this number to diminish. But a great work is being done by London's institutions for indoor relief, which care for orphans, the friendless aged, and many of the blind, as well as by the seventy or eighty hospitals, scattered all over the county and surrounding districts, which now await transfer to the Ministry of Health (see p. 191).

### §3. THE WORK OF OTHER LONDON AUTHORITIES

It would give an unfair picture if this chapter did not close with a reference, however brief, to what other London authorities are doing. In many matters, such as street improvements and housing, the L.C.C. and the London Boroughs both have jurisdiction, so that a widened thoroughfare or a housing estate may represent the work of either or both, and if a new swimming-bath makes its appearance the odds are

about 3 : 1 that the Borough built it rather than the L.C.C. But there are many important local services, including such elementary necessities as street-lighting and the collection of refuse, of which the Boroughs have sole charge.

They, too, are making great progress. Between 1910 and 1935 they built 20,000 houses, 25 swimming baths, and 10 free libraries. Their maternity and child welfare services helped to reduce the infant mortality rate from 103 to 67 per thousand births. And the erection of traffic lights and pedestrian crossing posts shows the borough authorities busily at work in another way. The activities of the City Corporation are mostly on a smaller scale—except in the case of traffic problems!—but some slums have been demolished within their confines, and the metropolis outside has benefited by the construction of two new wholesale markets and a new Southwark Bridge over the Thames, the last named being paid for out of corporation rents without any charge on the City ratepayer.

Meanwhile, the river which flows beneath the bridges is the major concern of three other authorities—the ancient Thames Conservancy Board, which strives to keep it moving steadily between banks; the new Water Board, which purifies it with increasing efficiency as the source of two-thirds of the supply for its  $7\frac{1}{2}$  million customers; and the still newer Port Authority, whose boast it is that any vessel in the world (except perhaps the *Queen Mary*) may now ride up the river which made London great. Forty years ago the L.C.C. constituted itself the fourth of these authorities, when it attempted to add a service of water-buses to the functions of London's river: this



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was a dismal failure, but the L.P.T.B. may yet turn failure into success.

That the people of a great city require good government as well as self-government is the lesson of the last two authorities which we will mention. The Transport Board is composed of seven members, nominated by five trustees, and the vehicles which it owns carry nearly 10,000,000 passengers a day: for the average Londoner journeys three times as much now as he did in 1900. Emerging from the tube station or alighting from the bus he passes under the control of the ubiquitous Metropolitan police constable, who, like the transport worker, is employed by a non-elective authority. But so long as there is high efficiency and no favouritism the Londoner remains content that these services, unlike all else in his great city, should be immune from direct responsibility to public opinion and the electorate.

# XI

## THE PUBLIC WORK OF WOMEN

### §1. HISTORICAL

IN 1931 the population of the United Kingdom comprised 21,458,533 males and 23,336,824 females. This preponderance of women, which occurs in most countries, provides an additional justification—if any is needed—for an attempt to give here a summary account of the vast change in their position as citizens, which has been brought about in the last hundred years.

A century ago the legal rights of women were practically nil. In private life the married woman at least had next to no control over her own property or her own children: *a fortiori* there was no room for women in the control of public affairs. Their eligibility to the newly constituted Boards of Guardians was the only apparent exception—apparent because no female Guardian was in fact elected until 1875. Florence Nightingale's career showed clearly enough what a woman could contribute to public life, but her miracles of organization in the Crimea were, so to speak, explained away on the ground that nursing was naturally a female occupation. At all events, no serious attempt to change the situation was made until 1867, when the utilitarian philosopher, John Stuart Mill, who constituted himself the first important champion of women's rights, moved an amendment to Disraeli's Parliamentary Reform Bill of that year, proposing to extend the franchise to women. The

amendment received 80 votes, and thereafter the question of the franchise was never allowed to sleep: but for the next forty years the progress made was in two other directions. By a series of laws beginning in 1870 the position of married women in relation to their property was gradually transformed; and by the 'seventies the movement in favour of higher education for women, which began at Queen's College, London, in 1848, had reached an obvious climax in the foundation of colleges at Cambridge and Oxford. Economic and intellectual prepared the way for political independence. Already the doors of opportunity in local government were being allowed to swing open. The municipal franchise was conferred on women rate-payers in 1869, and the county franchise was theirs from the inauguration of the councils in 1888. What mattered more was the right to be elected. Women were admitted to the School Boards in 1870, to District and Parish Councils in 1894, and finally to Borough and County Councils in 1907.

By the last of these dates, however, a new interest was being roused in the question of the parliamentary franchise, as a result of the foundation of Mrs. Pankhurst's Social and Political Union (1903) and of the determined leadership which she gave it. This was the movement which gained enormous notoriety by a campaign of violence, intended to attract attention (in which it certainly succeeded) and to force the hand of the Asquith Government (in which it was apparently less successful). What its ultimate results would have been we cannot tell. In 1914 the war intervened, the energies of militant suffragettes and their more law-abiding sisters were diverted to war work, and the gift of the franchise in 1918 was supposed to be the reward

of the latter: though fear of the revival of militancy may well have played a part in the Government's decision.

At all events, the Representation of the People Act gave the vote (on certain conditions) to women above the age of thirty, and a special statute of the same year entitled them also to sit as members of the House of Commons. In 1919 the Sex Disqualification (Removal) Act laid down the general principle that women, whether married or unmarried, were to be deemed fit to exercise any public function; and in 1928 yet another franchise reform abolished the age-limit and other restrictions, so that women now receive the vote on exactly the same terms as men. Nevertheless, three types of disqualification still remain. One of these is mainly a matter of custom—no woman has yet been made an ambassador, a judge, or a chief constable. The second is a deterrent, found in private as well as public concerns and based partly on economic considerations: it is that women officials receive lower rates of pay than men, and are commonly dismissible if they marry. The last-named disability has, however, now ceased to apply to the teaching profession at least; and in 1944 a Royal Commission was set up to report on the vexed question of equal pay for equal work in relation to the whole field of employment. Lastly, there is a curious legal anomaly. Although, by a practice dating back to the Tudor reigns, the throne may be inherited by, as well as through, a woman, yet a peeress in her own right is incapable of sitting in the House of Lords. Such peeresses are only two dozen in all, so this anomaly may perhaps be allowed to rest—at least until the Empire is once more ruled by a queen.

## §2. SOME ACHIEVEMENTS

Although there are now more women voters than men, the result has not been a great change in the composition of the House of Commons. The number of female M.P.'s has taken nearly a generation to reach its present total of twenty-four—less than 4 per cent of the whole—a fact which is partly attributable to the reluctance of party organizations, run on traditional lines, to give women constituencies where the party has much chance of winning: as late as the 1935 election rather more than half the women are said to have been fighting "forlorn hopes." In the House itself they have been more active than the average Member, for their sex still gives them a certain prominence, and two women have reached Cabinet rank as Ministers of Labour and Education respectively. Nevertheless, it is reasonable to suppose that a generation must elapse, during which women are educated to think of themselves as voters, before female representation takes full effect. But in the meanwhile, we may point to two out of several possible examples of social reforms which have undoubtedly been aided by the women's vote. In 1925 pensions were conceded to widows, with additional allowances for each dependent child; and a whole series of Acts have been brought in to safeguard the position of children in such matters as their adoption, their employment, and juvenile delinquency.

In local government, after thirty years' experience, women now play a more prominent part. Between 1930 and 1935 women councillors increased by 30 per cent; "Her Worship the Mayor" has ceased to be the butt of popular witticisms; and just before the war the

L.C.C. itself had women in the chairs of three of its most important committees. Admission to the magistracy (which, together with the duty of jury service, resulted from the Act of 1919, referred to above) has also borne fruit, for there are now about 2,000 women J.P.'s out of a total of 23,000. In the courts, as on the local councils, women have a special work to do, since the type of woman who is appointed or elected has usually undertaken some voluntary philanthropic activity, giving her a better insight than the successful business man or territorial magnate into the lives and troubles of the poor. It is now officially recommended that a Children's Court should, wherever possible, include a woman magistrate.

In the professions women have extended their sphere from teaching and medicine, where alone they were to be found in any numbers before the war, to practically everything. It is said that the only census classifications in which no women are reported are the Armed Forces and the Roman Catholic and Anglican priesthoods. As regards the paid public services, nursing has always been women's work: one result of their enfranchisement is an improvement in its status. The health service in general is now thrown open to them, and they are commonly found acting as sanitary inspectors and health visitors—local government officials whose work is of the highest importance. The women police are, as an institution, more prominent: suffice it to say that their services in the protection of women and children are so obviously valuable that a total of two to three hundred, about half of whom are in the Metropolitan Police alone, appears inadequate.

In the war of 1939-45 British women made a larger proportionate contribution to the national effort than

the women of any other country, the U.S.S.R. only excepted. Nearly half a million were enrolled in the W.R.N.S., A.T.S., and W.A.A.F., where they replaced men in non-combatant duties, including even predictor-work on anti-aircraft gun-sites. The youngest age-groups were mobilized for the Forces, but for industrial work the principle of compulsion was applicable up to the age of forty (and less rigorously up to fifty), except for the wives of serving men and other wives with small children to look after. The result was the introduction into the factories, farms, transport systems, etc., of more than  $1\frac{1}{2}$  million women to whom such work was new. In addition, about a million were engaged in voluntary unpaid work, such as W.V.S. and nursing, mainly on a whole-time basis; and nearly as many (including a high proportion of those with families) in paid work on a part-time basis. It is too soon to say what will be the lasting results of this great exodus of women from the home, and of the great increase in the number of women who have held posts of major responsibility both in military and in civil life.

Nevertheless, it is not in paid service or even in official life that women have hitherto made their most valuable contribution to the State. Under pre-war conditions one-fifth of the women in the country occupied no salaried post at any time in their lives, and of the remainder a high proportion gave up their posts on marriage and might find themselves, sooner or later, with a good deal of leisure on their hands. Hence the number and magnitude of the voluntary activities for the public benefit which their efforts have sustained. We have only space to distinguish three types. First, work by women for women: the best

example of this is perhaps the network of Women's Institutes, established all over the country during the inter-war years, which have done much to deprive village life of drabness and squalor. Then there is the organization of charity: what charitable society is there that does not depend on women for its committees, its secretarial work, and the visitation of applicants for help? Lastly, we may note a comparatively new development, namely the devotion of women to the cause of internationalism. They were the backbone of the League of Nations Union, and the guess may be hazarded that the propaganda of the United Nations organization will likewise depend largely upon the readiness of women to sacrifice their time for the cause.



## XII

# THE BRITISH COMMONWEALTH AND EMPIRE

### §I. THE BRITISH ISLES

"THE British Isles," at the present moment, is little more than a geographical expression, but from 1800 to 1920 it was virtually identical with a political unit, the United Kingdom of Great Britain and Ireland, the whole of which was governed by a single Parliament sitting at Westminster. The great change has, of course, occurred in Ireland; but we ought first to notice that Scotland, since she merged her Parliament with that of England to form the original United Kingdom in 1707, has always kept some separate institutions, on the retention of which Scotsmen have become more rather than less insistent with the lapse of time.

By the treaty of 1707 Scotland made two specific reservations. One was for the safety of the Presbyterian Church of Scotland, which is still the established, privileged church in North Britain, and of which the King becomes a member whenever he crosses the Border. The other was for the Scottish judicial system, based on the reception, some centuries earlier, of the principles of Roman law. Laws enacted since 1707 apply to both countries, but common law (e.g. the basis of land law) and methods of procedure in Scotland are entirely different. Juries return a majority verdict; the highest judges are styled Lord President and Lord Justice Clerk; and the highest Scottish court

is the Court of Session at Edinburgh, from which, however, a further appeal lies to the House of Lords. Two other institutions, not mentioned in the treaty, were left untouched. In local government it is mainly the nomenclature of burgh and bailie that is different, though the Scottish counties being less populous delegate fewer powers to district councils. As regards education, Scotland in 1707 already had (or seriously strove for) a school in every parish, with four universities for a population of one million; and until the Education Act of 1944 is fully carried out she remains still ahead of England both in the general respect paid to education and in the actual provision of secondary school facilities. It is this tradition which most clearly distinguishes the Scotsman to-day. With the modern increase in the functions of government Scotland has received another mark of separateness, in the creation of a Scottish Department, the head of which has been since 1926 a full Secretary of State. This department discharges in Scotland the duties otherwise assigned to the Home Secretary and Minister of Health, as well as those of the Minister of Education.

There is no separate Department for Wales: the little Principality was originally conquered territory, and its institutions have been thoroughly assimilated to those of England. The Welsh, however, have their own living language, to which the annual Eisteddfod or "session of the bards" bears vigorous witness; and this is recognized, notably in the maintenance of a Welsh subdivision of the Ministry of Education, with its own inspectorate and regulations. The Welsh M.P.'s also at one time formed a separate group at Westminster, which scored an important victory for the spirit of Welsh nationalism in 1920, when the

Church of England, which had been the established church of Wales for more than three centuries, lost its privileges and was put on a footing of equality with the native Nonconformist organizations.

In Ireland there has occurred, since the Great War, an almost complete break with the history of the four preceding centuries, emphasized by the division of the island into two separate and hostile parts. Northern Ireland, which is broadly speaking the same thing as Ulster, is a land of Scottish and English settlers, ultra-Protestant and heavily industrialized, with one and a quarter million inhabitants. Since 1920 its form of government has been dual. The British connection, to which the typical Ulsterman is intensely loyal, is emphasized by the retention of a dozen Members of Parliament and by submission to Westminster in all matters of foreign policy and military arrangements; the British Government also collects the taxes. For local affairs, on the other hand, Northern Ireland has its own Parliament, consisting of the Governor (appointed by the King), a Senate, and House of Commons—seventy-nine members in all—the whole constituting a kind of half-way house between the status of a part of the United Kingdom and that of a Dominion.

But the three million Celts (and others) who people Southern Ireland find in full Dominion status too little liberty. A long and sad history goes far to explain this, since the Englishman having figured for centuries as the alien landlord with an alien creed cannot easily placate the Catholic Irish peasant, though in the last forty or fifty years goodwill on the part of the former at least has not generally been lacking. In December 1921 a serious rebellion, in which the long

smouldering discontent of the Southern Irish had reached its climax, was terminated by a treaty between His Majesty's Government and the rebels. This provided for the creation of an Irish Free State, having the same constitutional position within the Empire as Canada had, subject to three main provisions—for religious equality (so that Protestant "Loyalists" might not suffer from a dominant Catholic Church); for imperial defence (certain Irish harbours were guaranteed to the Royal Navy, especially in time of war); and for loyalty to the British Crown (members of the new Irish Parliament were to make a compulsory declaration of fidelity). For about a decade Dominion status, the exact nature of which we shall examine shortly, appeared to satisfy the unhappy island. Then the irreconcilable Republicans came to the fore. A quarrel was picked about the land annuities—money which the British Government had advanced many years earlier to help Irish farmers buy out their landlords; the oath of allegiance to the British Crown was arbitrarily abolished in the Free State Parliament (*Dail Eireann*); and the British connection in general treated with contempt. Under the new constitution (1937) the office of Governor-General is abolished, and recognition of the monarchy confined expressly to external relations: how little this means in practice was shown by the unbenevolent neutrality which Eire, as it is now called, preserved, when the fate of the Empire hung in the balance during the war of 1939-45. In the internal affairs of the Free State both British citizenship and allegiance to the Crown are now formally repudiated.

It remains to notice, by way of contrast, two lesser insular appendages of Britain, neither of which has

ever suffered that representation in the Parliament of the United Kingdom, from which Southern Ireland has freed itself. The Channel Islanders boast that they conquered England, not vice versa, by which dark saying they allude to the fact that their islands are original possessions of that Duchy of Normandy, from which the Conqueror sailed. Like Wales, they have their own language (a kind of French patois); like Scotland, they have their own customary law and law courts; and in addition there survive for parliaments the ancient Estates of Jersey and Guernsey. The Isle of Man has similar picturesque survivals, though there the legislative body, the Tynwald, is of Norse origin. But if the Channel Isles are the earliest, Man is among the latest, acquisitions of the British Crown, since it remained until the nineteenth century the hereditary possession of the Earls of Derby, successors to the Kings of the Sagas. Our Acts of Parliament, though not our income tax, are commonly adopted by the islanders, both of the English Channel and of the Irish Sea; a Lieutenant-Governor is appointed by the Crown; and joint affairs fall, like so many oddments of business, within the province of the Home Secretary.

## §2. THE DOMINIONS

The name "Dominion" was first used in the British North America Act of 1867, which extended the principle of responsible government from the then separate constitutions of Upper and Lower Canada (Ontario and Quebec), Nova Scotia, and New Brunswick to a joint organization, to which other provinces in North America might accede, if they chose. In the course of time these other provinces have all acceded,

except the ancient colony of Newfoundland. We may therefore define a Dominion as a territory of the British Crown enjoying full powers of self-government on a national rather than a provincial scale, with Canada as its prototype.

The Canadian pattern is roughly as follows. The constitution is to be "similar in principle to that of the United Kingdom," the executive power being exercised in theory by a Governor-General and Privy Councillors, in practice by a Prime Minister and Cabinet, who are sworn of the Council and represent the majority party or parties in the Canadian House of Commons. This House has 245 members, elected by single-member constituencies, and shares the power of legislation with a Senate of 96 members, whom the Governor-General (on the advice of his Prime Minister) appoints for life to represent the different provinces in a fixed proportion. Other institutions, not specified by statute, are broadly speaking English in pattern. There is a Dominion Civil Service recruited by competitive examination; the judges administer the common law; there are justices of the peace; and the Dominion police service (the "Mounties") excels most English services in renown and perhaps in efficiency.

But in one respect the Canadian constitution is wholly different from the British. Because provincial feeling (as among the French "habitants" of Quebec), was extremely strong, it was deemed advisable to retain, alongside of the new Dominion Government, the whole paraphernalia of lieutenant-governors, ministries, legislative assemblies, and even separate judicatures for the several provinces. The Dominion Government, indeed, exercises all powers not specifically conferred on the provinces by the Act, but

within these limits modern Canada is a federation, that is to say, the legislation of the provincial parliament cannot, like our by-laws, be overridden by Dominion statutes. This idea of federalism was carried still further when the six rival States of Australia united to form the second British Dominion in 1900, for in this case all rights not specifically conferred on the Commonwealth Government were reserved to the several States—a fruitful source of litigation, ending in appeals to the Judicial Committee of the Privy Council. Australia also differs from Canada in that the Dominion senators, who act as a connecting-link in both cases, are, in the Commonwealth, chosen by election.

The three great Dominions of later creation resemble the Canadian pattern in most respects, but not in its federalism. New Zealand was too small to have any need of it, nor would it have been welcome in a country whose devotion to things English extends to the division of counties into ridings. The Union of South Africa is large enough and has the basis for a confederation in its four historic provinces, but the provincial councils were kept entirely subordinate to the Union Parliament, partly because economic unity was a pressing need in 1909—the date of the constitution—and partly because complete political unity is particularly desirable in a country where the natives far outnumber the white inhabitants. As for the Irish Free State, the only kind of federation to be looked for there would be some organic link with the unwilling North.

All Dominion constitutions began as Acts of the British Parliament, which implied that, however great the liberty which the Dominions in fact enjoyed, the

legal sovereignty rested with the King-in-Parliament, which could in theory cancel any Act it had made. This position was naturally galling to the Dominions, when both in the sessions of the Peace Conference and at the League Assembly they had received public recognition as independent nations. The Imperial Conference of 1926 therefore defined the position of the Dominions and of the United Kingdom in the following terms:

They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations.

The Conference having no legislative powers, this proposition was later enacted, both in the British and the Dominion Parliaments, as the Statute of Westminster of 1931.

Thus each Dominion is now as competent as the mother-country to modify its constitution in any way it pleases. Canada, for instance, restricts the right of appeal to the Judicial Committee, and the Union of South Africa has ordered the acquisition of a Great Seal, so that no formal document (such as a declaration of neutrality in time of war) may require the participation of any British authority. The Irish Free State, as we have seen, has remodelled her constitution, granted by treaty only fifteen years ago, almost past recognition. As for the "right of secession," the Statute says no word for or against its existence: it is an old and fortunate custom of the Anglo-Saxon (though not of the Celtic) race to let sleeping dogs lie.



From the practical standpoint, however, we may cite three reasons why the free and equal British Commonwealth of Nations may be expected to continue. In the first place the sentimental attachment to the royal house is great and does not seem to be diminishing. In the second place, it must always be borne in mind that, judged by wealth and white population, the Dominions are unlikely, at least for many years to come, to rank among the greater Powers. Their prestige is therefore much more considerable while they remain parts of a world-wide empire, to say nothing of the better facilities which their individual citizens enjoy as Britishers in the mails, the cables, and the consular service.

In the third place there is the economic bond. Does the Irish Free State break its pledge to Britain? Retaliation consists in severing trade relations by means of a prohibitive tariff. Do the politics of Newfoundland sink into a corrupt confusion? Financial pressure from the City of London, demanding repayment of loans—or security for the same—induces her to forgo voluntarily (and, we hope, temporarily) her Dominion status. Approximately one-third of Britain's trade, both inward and outward, consists in transactions with the Empire beyond the seas, viewed as a whole. Over and above this, the self-governing Dominions enjoy two special advantages. As the result of hard bargaining at the Ottawa Conference in 1932 the new British tariff was shaped so as to give them a preference over the foreigner in the British market far more valuable than the preferences that Britain received in theirs; and, by an arrangement dating back to 1900, Dominion loans rank in London as trust securities. This means that investment in the public finance of

a Dominion is deemed legally safe, so that money can usually be obtained by the Dominion at cheaper rates in London than in any foreign financial centre.

Another argument which used to be employed in this connection was the increased safety which membership of a great empire gave. British military garrisons were withdrawn from the Dominions in the middle of the nineteenth century, but the fleet continued to be their first line of defence. The first world war came, and in it the Dominions sacrificed their men as readily as the mother-country in a quarrel which seemed primarily European; but British naval supremacy both preserved the Dominions from attack and facilitated their acquisition of German colonial territory in Africa and the Pacific. The second world war likewise began as a European quarrel, in which the Dominions—in the case of South Africa, a little reluctantly—rallied to Britain's support: but the catastrophes in the Far East, which followed Japan's entry into the war at a time when our strength was depleted by the long struggle against Germany, disrupted our communications and created a situation in which Australia and New Zealand, and to a great extent Canada, knew that they depended more upon American than upon British strength for their survival. Accordingly, our awareness of the sentimental ties, which the hazards of the recent war have fostered, must not blind us to the fact that the Dominions can no longer be expected to regard the British connection, which tends to involve them in European quarrels, as having a compensating military advantage in that it gives automatic security to their own territories.

All the more importance attaches, therefore, to the machinery for maintaining a common foreign policy,

the need for which began to be felt after the war of 1914-18, when the Dominions, which had previously been content to let the British Foreign Secretary act as their mouthpiece in foreign affairs, joined the League of Nations as separate units, and began to set up legations in those foreign capitals where they had special interests. The only permanent machinery so far established consists of the Dominion High Commissioners, who represent each Dominion Government in London and are in constant touch with the Dominions Secretary, and similar High Commissioners sent to represent the United Kingdom Government in the Dominions. It is likewise the task of the Imperial Conference, which first met as a casual "Colonial Conference" on the occasion of Queen Victoria's first Jubilee, and became a regular institution with four-yearly meetings in 1907, to reconcile divergent aims and keep the Empire together. The British Premier presides at the Conference, with the help of the Secretary for the Dominions, and the Dominions are represented mainly by their Premiers. Much work has been accomplished—the Statute of Westminster and the Imperial Economic Conference at Ottawa are among its achievements—but neither an imperial foreign policy nor an imperial defence policy had taken proper shape by the outbreak of war in 1939. During the war there have been notable advances towards a common defence policy, such as the great Empire Air Training Scheme, which was based on Canada, and in relation to the war at least a common foreign policy has been enunciated by Dominion statesmen like General Smuts as much as by the British Foreign Office, and has been universally accepted. The reports of the Imperial Conference of 1944 do not, however, show what progress

has been made, if any, towards the establishment of any permanent organ to bind the Commonwealth together in the recurrent crises of foreign policy, though it is noteworthy that a further *ad hoc* conference was held the following year to consider Commonwealth policy in relation to the forthcoming San Francisco Conference of the United Nations.

### §3. INDIA AND PAKISTAN

An empire of nearly 400,000,000 souls, which has grown by 100,000,000 in two generations, even if it had not the ancient and complicated civilization of India, would constitute too great a task for proper description in a book like this. India, moreover, is now in a stage of transition. When the British Government, as a result of the Mutiny of 1857, first took over the duties performed or neglected, as the case might be, by the East India Company, the system was comparatively simple. About two-thirds of the whole sub-continent, known as British India, was directly ruled by six provincial governors and civil servants of British nationality, under the general supervision of the Viceroy. The other one-third, comprising the Native States, was ruled by native princes, subject to the remonstrances of British Residents and the terms of their treaties with the British Crown, represented again by the Viceroy. Since the princes ruled as autocratically as the Civil Service, though with far less enlightenment, democratic self-government was entirely lacking. Indeed, India's only link with any organization that was not purely autocratic was the Secretary of State for India: for it was with him and his Council of advisers at the India Office that the ultimate control

over the Viceroy rested—and it was always possible, though not probable, that the British Parliament, through the Secretary of State, might dictate some change of policy.

Lord Ripon, who was Viceroy in the early 'eighties, instituted minor local councils with a representative Indian element. Otherwise, there was no important change until 1907–9, when the Morley-Minto Reforms included the appointment of Indians to the Councils of the Viceroy and the Secretary of State, the members of which are in both cases nominated. Elected Provincial Councils were also instituted, but they had no control of the administration. Then came the war in which both the princes and the peoples of India rendered notable service to the British Empire, thus justifying the clamour, which had been becoming steadily louder ever since the foundation of the Congress Party, in 1885, for the government of India by the Indians. In 1919, accordingly, an epoch-making Government of India Act was passed, which proclaimed as its policy

the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions, with a view to the progressive realization of responsible Government in British India as an integral part of the British Empire.

What this programme meant in practice was the setting up of an Indian Legislature of two houses, which could pass laws and vote taxes but might always be overridden by the Viceroy and his officials in the event of a deadlock. In the Provinces a more genuine parliamentary system was evolved, known as dyarchy, by which the work of administration was divided into

two halves—"transferred subjects," which were under the charge of a native minister responsible to the Legislative Council, and "reserved subjects" (such as the maintenance of law and order), on which the Governor and his officials kept their hand. At the same time more Indians were recruited for the higher ranks of the Civil Service and for commissions in the Army.

The sequel was an almost incessant agitation for complete Home Rule, *alias* Dominion status, which led to the appointment of a series of commissions and conferences, and finally to the new Government of India Act of 1935. One main feature was provincial autonomy. Each province was controlled by a Legislative Assembly, chosen by an electorate of about 8,000,000, based on a property qualification and the allotment of special seats to the lesser (such as religious) communities, while the main provinces had in addition a smaller Legislative Council, most of whose members were also elected, but they retired at regular intervals without any General Election. The ministers were responsible to this provincial parliament, and the Governor was expected to use his power of veto very sparingly. The other main feature was a promising scheme for a federal system, with an all-India legislature, to which ministers would be responsible (except for some special Viceroy's powers), linking the provinces with the native states. But this never came into force, because the princes were still hesitating when the war began.

By 1942 the Japanese onslaught had produced a situation in which the British government officially pledged itself to let India frame her own constitution "as free in every respect as our own in Britain", only to be received with contumely because the pledge was

for post-war fulfilment. Nevertheless it was duly honoured throughout long negotiations, which culminated in a Cabinet mission's plan for a Union of India, to be built up by a constituent assembly in which the rival religious communities had separate representation on a population basis. This attempt to make the unity of India survive the Raj which had created it succeeded to the extent that a Viceroy's Cabinet was formed, in which Hindu and Moslem leaders for a time co-operated. But bitter communal jealousies continued to hold up the constitution-making until Britain reluctantly agreed to an immediate division of the proposed Union into two Dominions, Hindu India and Moslem Pakistan, to which native states might adhere as they chose. By June 1948 British forces were to be withdrawn from the entire sub-continent, whereupon complete independence could be claimed, as it had already been claimed by Burma, India's nearest neighbour, with or without the achievement of racial harmony or viable political institutions. Nationalist enthusiasts have often ignored, and have done little as yet to remove, India's supreme handicaps of religious fanaticism and economic backwardness.

#### §4. THE COLONIAL EMPIRE

Responsible self-government is, as we have seen, the distinguishing feature of a Dominion, whereas the distinguishing feature of a British Colony is the fact that the ultimate control over it is vested in the Colonial Office. Nevertheless, it is important to remember that the line between them is not hard and fast. With the exception of the Irish Free State, every existing Dominion has once been a colony; in Southern Rhodesia, where responsible government was instituted

in 1923, we have a colony which only its very small white population (55,000) prevents from assuming Dominion status forthwith; and conversely Newfoundland, which ranked as a Dominion, has been ruled since 1933 by a Commission of Government nominated in Great Britain. Ceylon also occupies an intermediate position: nor is it easy to classify the new Federation of Malaya, with its representative institutions designed to link together cosmopolitan seaports and semi-feudal sultanates.

Indeed, a system which embraces some sixty principal possessions and about seven hundred smaller units, most of them quite insignificant, may be expected to contain some anomalies. One large and valuable area, for instance, the Anglo-Egyptian Soudan, is officially a condominium, administered in practice by Englishmen under a joint display of the British and Egyptian flags. At the other end of the scale there are isolated islands such as Ascension, which until 1922 was controlled by the Admiralty and rated as a ship, and the Tristan da Cunha group, which is clearly regarded (and regards itself) as an integral part of the Empire, yet has no legally established form of government but a Chief to act as island spokesman.

In the seventeenth and eighteenth centuries Crown Colonies were usually ruled by a dual system, under which an elected body made the laws and the Governor was charged with the administration only, subject of course to the overriding powers of King and Parliament. But in nearly every case this arrangement has either paved the way to Dominion status, or else been abandoned in course of time on account of the friction which arises through the complete separation of the legislative and executive powers. Thus Jamaica gave



up its freedom after the episode of the native rising which was put down by Governor Eyre in 1865; and both Malta and Cyprus forfeited theirs for the time being during the period of strained relations in the Mediterranean area which preceded the second world war. The standard type of colonial constitution at the present day may therefore be described as one which provides for a "Governor and Commander-in-Chief," assisted by other paid officials, notably the "Colonial Secretary," all of whom are appointed by the Colonial Office; an Executive Council, nominated by the Governor; and a Legislative Council, made up of nominated and elected elements in varying proportions. Nominated members of councils are usually chosen so as to represent fairly the wishes of the white population and any other organized communities within the colony, and may include missionaries and others deemed competent to voice the feelings of the natives at large. Jamaica under its new constitution of 1944, which provides for a new elected House of Representatives to legislate jointly with a nominated council, follows Ceylon in making the bold experiment of adult suffrage; but in most colonies there are still too many illiterates for this to be practicable, even where the cleavages of race, language, or religion would not make any attempt to rule in accordance with majority opinion a danger to the liberty of the minorities.

An entirely different system, known as "indirect rule," is adopted in the vast areas of the Protectorates, which have huge native populations and very few white residents. A Protectorate is so called because Great Britain undertakes to protect it against foreign interference; but Nigeria, Uganda, and Bechuanaland (to

quote some main examples) are ruled, as regards their internal affairs, by their own native chiefs under the supervision of a few scattered white advisers. The same thing is still more true of a Sphere of Influence, such as Britain maintains in parts of Arabia and the vicinity of the Persian Gulf, for the Sphere of Influence often becomes a Protectorate, just as the Protectorate, the inhabitants of which are not strictly speaking British subjects, may at any time be converted into a colony, if political considerations require.

Mandates, on the other hand, were a device of the 1919 Peace Conference for reconciling League of Nations ideals with the resolve of the Allies to expropriate the former colonial empires of the Germans and the Turks. Mandated territories have differed from colonies in that the mandatory Power must render some account of its administration to a committee of the League and must encourage the mandated territory wherever possible to move steadily in the direction of ultimate independence. In the case of Iraq Britain has already discharged a mandate; but many mandated areas are quite uncivilized tropical possessions, for which the question is, not whether independence can some day be conceded, but will Britain or France or the British Dominions (which act separately as mandatory Powers, the Union of South Africa holding the vast territory of former German South-West Africa) ever be prepared to transfer their responsibilities to other Powers, not less eager to shoulder them? In any case, it may be assumed that the next step will be to include mandates among the trust territories for which provision is made in the Charter of the United Nations (see Chapter XIII, §2).

Our colonial empire concerns us as citizens in three

ways. It is a valuable source of trade. Public works for the colonies, including such large items as docks and railways, are supplied through officials in Britain known as Crown Agents for the Colonies. Private trade, on the other hand, is unrestricted (apart from the Imperial Preference system established at Ottawa in 1932): but the fact that we govern a country and control its currency (so that there are no exchange difficulties) gives British subjects a great advantage, both as suppliers of native wants (a useful market for cheap manufactured goods) and as exporters of raw materials, made available, for the most part, by the employment of native labour. Secondly, there are the colonial services of police and administration under the auspices of the Colonial Office, which provide a satisfying and not ill-rewarded career for a section of the British middle class. What they do for the natives in suppressing cruelties, improving health conditions, and spreading enlightenment is well worth while; but it is important to remember that it has usually been paid for by poll and other taxes, which force the native (who usually has no money) to work at low wages for the white man; also that the difficulty of raising any money in the poorest colonies has tended to restrict Government activity to a minimum just where it is most needed. Finally, the colonial empire ought to concern us as a common responsibility. The Colonial Secretary, as a member of the Cabinet, is answerable for his policy, in the last resort, to the British electorate. It is our business to insist upon a just and progressive policy as far removed as possible from crude exploitation of defenceless peoples. The Colonial Development and Welfare Acts of 1940 and 1945, under the second of which backward colonial areas will receive

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grants from Britain averaging £12,000,000 in each of the first ten post-war years, appear to mark our acceptance at long last of the obligation to give from the vastly greater resources of the British taxpayer that initial help without which such areas cannot begin to raise social standards on their own account. Their progress towards self-government, which must be our ultimate aim for all the colonies, will be substantially helped by this measure.

# XIII

## INTERNATIONAL RELATIONS

### §1. INTERNATIONAL ORGANIZATION IN THE PAST

THE oldest international organization on a world-wide basis is the Postal Union, which since the 1870's has maintained a system of uniform charges and facilities for the exchange of correspondence among all civilized peoples. The frontier of the Postal Union is in a sense the world frontier of civilization. Nevertheless its problems and the restrictions on national sovereignty which it imposes are comparatively speaking so trivial that we must look elsewhere for the true beginnings of international *political* organization. They are to be found in the Concert of Europe, that practice of mutual consultation among the Great Powers, which was inaugurated in 1815 and, although it failed to prevent the major wars of 1848-78, was for forty years before 1914 a very real bulwark of peace. In 1898, for example, the Powers established an international force to keep order in Crete, then a European danger-point, and in 1912-13 their ambassadors in London contrived to smooth over all the difficulties created by the aggrandizement of rival Balkan States in their war against Turkey, several of which might have produced a general European conflict.

The Concert failed, indeed, to prevent the war of 1914, but its history did not end there. In 1919 the Council of the League of Nations was intended to replace it as the meeting-ground of the Great Powers

of Europe and of two new-comers, the United States and Japan, which before the war had taken part in their deliberations on a few occasions only. Apart altogether from the question of American participation, the attempt to replace the Concert broke down because the drafters of the League Covenant saw fit to include in the Council some elected representatives of the smaller states, whose number steadily grew. Accordingly, the Concert was revived. At first it was the Allied Powers of the war period which deliberated apart from the rest; then Germany came to be included, and finally Soviet Russia. Thus it came about that, in the succession of crises which Germany fomented in the years immediately preceding the war of 1939, the negotiations for her appeasement were conducted mainly through the foreign offices and embassies in the principal European capitals. In the summer of 1936, when Portugal tried to stay out of the agreement for non-intervention in Spain, recalcitrance by a small Power faced with the wishes of the Concert of Europe was denounced entirely in the pre-war manner.

The League of Nations, on the other hand, which twenty-five years ago embodied the highest hopes of all mankind, lost the power which the Concert gained, and suffered throughout its history from the fact that America never joined the League which its great President, Wilson, had chiefly brought to birth: so a description of the somewhat elaborate organization of the League, to which we now turn, must not be taken to imply a corresponding degree of strength.

On the political side, the League was embodied in three main instruments. The first was the annual Assembly at Geneva, to which some fifty-four sovereign states (about three-quarters of the world) sent

representatives. Much of its time was spent in committee-work—for instance, the examination of reports from the Council on the government of mandated territories or the treatment of minorities. A Budget was also presented every year, League expenditure being paid for by member-states in proportion to their resources. Great Britain had the largest assessment, but the total annual commitments did not exceed £2,000,000. On some occasions a new law or convention might be drafted by the Assembly, though the law came into force only in so far as it was ratified by the various governments—usually a slow process. But, to quote the opinion of an expert (Sir Alfred Zimmern):

By far the most important function of the Assembly is to provide a forum for the discussion of world affairs. The general debate which takes place during the first week provides a unique occasion, such as was nowhere available under the pre-war system, for the expression of the opinions and conscience of the peoples represented there. During that week in September Geneva is the best sounding-board in the world. . . . The net result is always both instructive and inspiring.<sup>1</sup>

In other words, the League Assembly focused and strengthened whatever forces were making for goodwill in the world; but it did not manage to crush their opposites.

Much the same may be said of other organs of the League. The Council, which included four Great Powers (Great Britain, France, the U.S.S.R., and Italy) and ten elected members (chosen in practice so as to represent different groups in the League, e.g. one representative for South America and one for the

<sup>1</sup> Zimmern: *League of Nations and Rule of Law* (1936), p. 465.

British Dominions), was meant to function as a Cabinet. It met at least three times a year, and had as its three main duties the control of the League's world services (discussed below); the discharge of diplomatic business, especially in the event of any war or threat of war; and League affairs of every kind, which might require quicker and quieter action than could be taken by fifty-four nations in public session. In the Council, as in the Assembly, important decisions had to be unanimous, except for the actual parties to a dispute. But once this obstacle was surmounted, the Council was in a position to deal with international difficulties of any kind by methods of practical adjustment, while legal disputes could be determined by another League organ, the Permanent Court set up in 1922 at The Hague. All that was lacking was the will to banish war.

In the long run the World Services came to constitute the most hopeful side of the League's activities. International communications, economic and financial co-operation (Austria could never have survived without loans sponsored by the League), and public health—including the suppression of drug and other unsavoury traffics—were all watched and safeguarded by committees of experts, under the supervision of the League Secretariat at Geneva. This international civil service was, indeed, responsible in one way or another for many of the League's more solid achievements. Finally, there was a parallel organization, known as the International Labour Office, which watched industrial conditions and had as its main task the gradual levelling-up of wages and hours to the standard of the more advanced nations, receiving powerful support from America as one of its constituent members.

The general prestige of the League declined rapidly



with its failure to curb Japanese aggression in 1932, or Italian aggression in 1935, but it was left for the second world war to deal the final blow. In December 1939 its authority was invoked for the last time in connection with the Russian invasion of Finland. Russia was formally expelled from the League, and plans were laid for sending help to the Finns across neutral Scandinavian territory: but Sweden and Norway, like many other Powers before them, refused to fulfil League commitments at the risk of war, so the Finns were forced to surrender. Within twelve months Germany had overrun the Continent so completely that in Europe at least the League had lost all significance; and when the later fortunes of the war linked Russia with the western allies there was every reason for the tacit decision to forget the League. To this generalization there is one great exception. The I.L.O. was able to transfer its headquarters temporarily to Canada and kept its organization in being, ready to champion the workers' needs in a second post-war era.

## §2. THE UNITED NATIONS ORGANIZATION (U.N.O.)

The war of 1939-45 was marked from the outset by a greater readiness to pool resources for resistance to Germany than had been shown by the Allies in the first world war. Britain and France shared supplies, the British Expeditionary Force of 1939-40 was placed under the French High Command throughout its operations in France and Belgium, and in the crisis of June 1940, when the Germans were overrunning the soil of France, the British Government made the unprecedented offer of a common citizenship for the two countries. This was not accepted, so until the

final stages of the war Anglo-French co-operation was kept alive only by the work of the "Free French," those who fought on our side against the will of the official Vichy Government; but the German conquest of the Continent, which drove us apart from official France, had also the effect of bringing to London the exiled Governments of eight other conquered peoples. Though these were Governments without countries, they disposed of important assets—a considerable part of the Polish Army, nearly the whole of the Norwegian mercantile marine, the Dutch and Belgian colonial empires, etc.—which they made legally available to swell what was at this time a mainly British war effort. On June 12th 1941 they joined with Britain, the Dominions, and the Free French in a conference at St. James's Palace, at which was formally declared the intention to collaborate after the war for the achievement of enduring peace. But with the entry of Russia and the United States into the war these weaker victims of Nazi aggression found themselves almost automatically linked up with not one but three (or, including China, four) Great Powers; and it was for President Roosevelt, who in August 1941, while America was still neutral, published in agreement with the British Prime Minister the peace programme known as the Atlantic Charter, to take the lead in constituting a formal organization.

On January 1st 1942 the Declaration of the United Nations was signed at Washington by representatives of twenty-six Governments, accepting the principles of the Atlantic Charter and pledging their full resources to the prosecution of the war. The Atlantic Charter promised equal rights to all nations, including freedom from economic as well as political insecurity—but the

war must first be won. During the next three and a half years what caught the eye was the strategic conferences of the Great Powers—at Moscow, Casablanca, Teheran, Yalta—but simultaneously there flowed from the United Nations Declaration an elaborate but less publicized profusion of Joint Boards, in which all the members combined to pool their forces, munitions, raw materials, and food supplies for total war. Then, as success became more certain and more imminent, the United Nations began to formulate schemes for non-military and less temporary objects, ranging from a Commission for the Investigation of War Crimes to projects for educational and cultural reconstruction and detailed economic arrangements, such as those for an International Monetary Fund and a World Bank. Above all, there was the establishment of U.N.R.R.A., to administer relief and rehabilitation on behalf of the United Nations in liberated territory. A plan was worked out at a conference in Atlantic City towards the end of 1943, designed to supply food and other necessities which a liberated country could not supply for itself, and also to control disease and epidemics, and to canalize the flood of refugees and other displaced persons which victory would let loose in both Europe and Asia. Two years later U.N.R.R.A. teams, though sorely hampered by political rivalries, were giving some liberated peoples the first concrete evidence that international effort was capable of affecting the life of the ordinary man as vitally in peace as in war.

But the centrepiece must be a security organization —“the establishment of a wider and permanent system of general security,” as foreshadowed in the Atlantic Charter. Accordingly, when victory was in

sight, preliminary proposals were drafted by the Big Four (including China) at their conferences, and referred to United Nations Governments for consideration. There followed the very important San Francisco Conference of 1945, which did its best to reconcile the principle of the sovereign equality of all members (embodied subsequently in the second article of the United Nations Charter) with the hard fact that no combination of lesser Powers, however numerous, can equal a single Great Power in terms of capacity for modern war. The result was a compromise, in which the idealism that had inspired the League Covenant of 1919 was sacrificed to expediency. This time no pretence is made that, if a Great Power puts itself in the wrong, it will be coerced as a smaller Power would be, by war; and the same criterion of expediency rather than abstract justice is to be applied in deciding whether a dispute shall be investigated—does its continuance endanger international peace and security? Other concessions in the same spirit are the recognition given in the new Charter to regional arrangements entered into by particular Powers or groups of Powers, an infringement of the principle of world unity which was severely frowned upon in 1919, and the abandonment of the general rule requiring decisions to be unanimous, which under the old League system protected the sovereign dignity of each member State at the expense of efficiency. But the biggest difference between the project of 1919 and that of 1945 is wholly to the advantage of the latter, and far outweighs its theoretical imperfections: this time both America and Russia are foundation members of the organization, so that, as long as it holds together, no challenge need be feared to its authority in the realm of force. It is

in the light of these practical considerations that the statement of Purposes and Principles, which prefaces the operative clauses of the Charter, deserves examination (see Appendix, p. 206).

The United Nations Charter entrusts "primary responsibility for the maintenance of international peace and security" to a Security Council, composed of five permanent members (the United States, U.S.S.R., United Kingdom, China, France) and six others elected by the Assembly (see p. 170) for a two-year period which is not immediately renewable. The representative of each member State is required to be available at all times, so that the Council functions continuously. Its business is to investigate international disputes; to try to negotiate peaceful settlements; where this fails to impose a ban on trade or other forms of communication with an offending State; and in the last resort to coerce the offender by military action. For this purpose the Council has the assistance of a Military Staff Committee, consisting of the Chiefs of Staff from the five permanent members, but the military forces to be employed will comprise air force and any other necessary contingents to be drawn from any member of the United Nations. Decisions of any kind (except merely as to procedure) require the agreement of the five permanent members of the Council and two others, with the proviso that, when a permanent member is concerned in a dispute, seven members, if they include the remaining permanent members, have power to investigate and make recommendations for a settlement: but—and it is a very big "but"—no punitive action can be taken against the veto of any permanent member.

The record of the first session of the Assembly, held

in London in January–February 1946, suggests that the Security Council will be in practice supreme: not only was it the source of every vital political decision, but the Assembly even agreed that the Commission on Atomic Energy, set up to handle the greatest of world problems, should report to the Security Council. Nevertheless, in all matters other than security, formal supremacy is, according to the Charter, vested in the General Assembly. Full sessions are held annually, but in 1947 a “Little Assembly” or standing committee was set up experimentally so that discussion of international disputes need not be delayed. Each member State has one seat, and a two-thirds majority of votes cast is required for the more important decisions, such as elections to the Security, Economic and Social, and Trusteeship Councils. Apart from elections the Assembly has a general power of supervision over the other organs of the United Nations, which submit their reports and recommendations to it, except for disputes handled by the Security Council (as to which the Assembly retains, however, the right of discussion and of making recommendations to the Security Council). In all other matters recommendations pass direct from the Assembly to the member States, and it also apportions expenses among the members, so that it may be said to have in it the rudimentary features of the international legislature of the future. Nevertheless, it is probable that the General Assembly, like the old League Assembly, will do its best work by serving as a forum for world discussion and the ventilation of grievances. As we have seen, it cannot itself impose sanctions, but it can enable public opinion, the force of argument and the voice of conscience to make themselves heard, without

regard to the comparative strength of disputants measured in terms of physical resources.

The establishment of an Economic and Social Council marks the recognition of the failure of the old League to realize the importance of economic and social conditions to the preservation of world peace. This Council consists of eighteen representatives, elected by the Assembly for three-year terms, and it is to make recommendations to the Assembly or direct to the member States regarding "social, cultural, educational, health and related matters" and—what is still more of a novelty—for the furtherance of "human rights and fundamental freedoms for all." It is expected to work partly through Commissions, such as a Commission on Human Rights, and more particularly by controlling specialized agencies, some of which are already in existence. Thus the Economic and Social Council will be responsible for the activities of the I.L.O., Reconstruction Bank, Monetary Fund, and the respective organizations for Food and Agriculture, for Education, Science, and Culture (UNESCO), and for Civil Aviation. The Council may even, it seems, give publicity to matters of domestic policy, where the action of any country in the economic sphere may become the cause of war. Here perhaps is the physician for the future maladies of mankind.

The new Trusteeship Council likewise marks an advance upon the methods of 1919, since international control of dependent territories is more firmly established by it than it was under the mandates system. Its membership consists of States administering trust territories, any permanent member of the Security Council who does not administer trust territories, and as many other members, to be elected by the General

Assembly for three-year terms, as are required to ensure that one-half of the Trusteeship Council are not themselves trustees of territories. Its function is to watch over the administration and progress of trust territories by such methods as periodic visits, provision of questionnaires, and examination of petitions, and to make annual reports to the General Assembly accordingly. Trust territories may include existing mandates (such as the African mandates which Britain offered to surrender at the first meeting of the General Assembly in January 1946), territories taken from enemy States in the war of 1939-45, and territories which may be voluntarily ceded by other States. Special provision is made for strategic areas, where final responsibility for the trust is assigned to the Security Council.

The last two principal organs of the United Nations require little description. The Secretariat, under a Secretary-General appointed by the Assembly on the recommendation of the Security Council, serves both the Assembly and the three Councils: the appointment of a Norwegian statesman with legal and trade union experience as first Secretary-General suggests that one of the best League of Nations traditions is likely to be followed by the new world civil service. The International Court of Justice, consisting of fifteen jurists all drawn from different States and approved by a majority of the Assembly and of the Security Council, is expressly based upon the Statute of the former Permanent Court at The Hague: that is to say, it will be available at any time to provide a panel of judges qualified to adjudicate on any legal dispute, arising between States, in accordance with the principles of international law.



Amendments to the Charter require the approval of a two-thirds majority in the Assembly and constitutional ratification by two-thirds of the member States, including each of the permanent members of the Security Council. Special facilities are provided for calling a conference of members to review the Charter after ten years in the perhaps unlikely contingency that no such conference has been required earlier.

### §3. OTHER BRITISH COMMITMENTS

Unlike the League Covenant, the Charter of the United Nations does not presuppose the abandonment by member States of other types of international agreement. For Britain the most immediate of these is the plan adopted by the greater Allies for the occupation and control of Germany and her satellites and of Japan. This involves two main tasks. First, the military—to disarm our late enemies and to keep them disarmed, which implies long-term control of many industries as well as a careful watch upon all organizations and social groups through which military and para-military cadres might be perpetuated. Second, the educational—to clear the way for, and stimulate the growth of, free institutions, it being assumed as the lesson of two world wars that democracies are on the whole less prone than other types of government to wish to attack their neighbours and, more certainly, that they are less able to take them by surprise. For these purposes, and for the more temporary objects of carrying through frontier changes and exacting reparations, Britain participates in the Allied Control Councils which exercise authority

in Germany and Austria; and a small British force was present along with Dominion contingents during the rapid American reorganization of Japan. In the case of Germany control is developing into a joint programme of long-term reconstruction, for which America will provide the money, but Britain (and France) in all probability the bulk of the necessary manpower.

But British commitments cannot stop there. To defend this island, which successive developments in air warfare, culminating in the atomic bomb, have rendered supremely vulnerable, it is essential that Western Europe at least shall remain in friendly hands. To keep open the sea routes, without which we should starve, requires an assured position in the Mediterranean and the lands of the Middle East. To preserve the Far Eastern trade and to maintain Commonwealth relations Britain must not disinterest herself even in the farther shores of the Atlantic and Pacific Oceans. Hence three commitments, stated or implied, which, though they are not out of harmony with the structure of the Charter system described above, are dictated by our national interests. Firstly, the countries of the West European coastline, which faces the island from Brittany to the Norwegian fiords, are encouraged as far as possible to carry over from the war period the linking of their military arrangements with ours and, what is even more important, to see their advantage in the maintenance of a political and economic system with which it is easy for us to co-operate—a project to which the four smaller Powers concerned lend themselves more readily than does France. Secondly, the twenty-year Anglo-Russian alliance does all that a formal alliance can to stave off a conflict of interest, it being understood that in Eastern Europe (except

Greece) Britain yields to Russia's claims, loudly asserted and backed by military power, in return for a tacit acknowledgment of her own special position in the West. Finally, as the lynch-pin of the whole, finding clear expression in our conduct of the recent war, there is the resolve to maintain a lasting partnership with the U.S.A., in which it is hoped that a fundamental similarity of outlook upon world problems may be allowed to outweigh the growing disparity in military and economic strength.

For the ultimate consideration in British foreign policy, influencing our attitude to the United Nations as well as the lesser commitments which have just been outlined, is our changed position in the world. Before 1914 Britain was a World Power in the full meaning of the phrase, who, by virtue of her enormous overseas investments, undoubted naval supremacy, and the fact that in foreign affairs the United Kingdom spoke for the Dominions as well as herself, was the acknowledged equal of any other World Power as a factor in world affairs. It is difficult for us to realize what a change has been brought about in a single generation. The prodigal expenditure of treasure, without which we could not have won either of the two great wars, has converted us from creditors into debtors, so that world finance is now based primarily on Washington. Since 1924 naval supremacy has likewise been shared with America, while the development of the air arm has in any case rendered the dominion of the seas more hazardous—witness the debacle in the Far East in 1941-2. Above all, there is the shifting balance in the industrialized populations upon which both economic and military effort nowadays depend. America has 140,000,000, with the

world's highest standard of living and the resources and techniques that this implies; the U.S.S.R. 194,000,000 just becoming industrialized, with vast untapped resources and a high birthrate; to be contrasted with a population in the United Kingdom of less than 50,000,000, to which may be added the purely voluntary support normally accorded by the Dominions and the wasting asset of India and the colonial empire, not largely industrialized as yet, whose gradual evolution towards political and economic independence we do not seek to oppose.

Thus America and Russia are World Powers of a different order of magnitude from present-day Britain, which could no longer challenge either of them. Once this unpalatable fact is recognized, it becomes clear that our foreign policy can only be based upon the active pursuit of peace, both for ourselves and for our neighbours, a responsibility to mankind which our past record and acknowledged sense of moderation and fair play well fit us to discharge. Indeed, in the Atomic Age upon which we are entering this may prove to be the only sane object of foreign policy for Powers of whatever magnitude.

## XIV

### NEW TRENDS IN GOVERNMENT

#### §1. INFLUENCE OF THE SECOND WORLD WAR

A WAR which influenced our international relationships so profoundly, as we saw in the last chapter, could not be without lasting influence upon our domestic institutions. It will, however, take many years for the tide of wartime measures to recede, so as to make it clear which of the organic changes of the war period came to stay. In the meanwhile all that we can do is to record some major changes and improvisations, which have their intrinsic importance as showing how the country was organized—and, if need be, might again be organized—for total war, and to suggest one or two general factors in the life of the period which are bound to leave their mark upon our post-war institutions.

The conduct of the war was primarily the responsibility of the War Cabinet, an inner group of leading ministers, small enough for frequent meetings and effective discussion, from which decisions as to war policy flowed to members of the ordinary Cabinet (which was allowed to grow in size) and through these ministers to their departments, except in the case of the most important departments, which were placed directly under members of the War Cabinet. As in 1914, the Committee of Imperial Defence was suspended for the duration of hostilities, the professional experts from its Secretariat being merged in the large War Cabinet Secretariat, which assisted with all the

multifarious business passing through the War Cabinet's hands. But for the dispatch of military affairs in the narrower sense, Mr. Churchill in 1940 established, subject to the supreme authority of the War Cabinet, a new instrument of government called the Defence Committee. This consisted of half a dozen ministers, sitting together with the Chiefs of Staff and Chief of Combined Operations and presided over by the Prime Minister in his further capacity as Minister of Defence, and had under its supervision the main committee of military experts, the Chiefs of Staff Committee, with its important subsidiaries, the Joint Planning and Joint Intelligence Committees. We may note in passing that the Chiefs of Staff Committee had been established as early as 1923, on the recommendation of the Committee of Imperial Defence, for the express purpose of ensuring that co-ordination of effort among the three fighting services which was shown to perfection in our landings on the Continent two decades later.

The war of 1939-45 was, in a fuller sense than its predecessor, a world war. Hence one important constitutional development, which well illustrates the elasticity of British institutions. Ministers of Cabinet rank, with the title "Minister of State," were sent to represent the Government in each of the remotest theatres of war—the Middle East, West Africa, the Far East—and also at Washington, so as to bring the full authority of the Cabinet to bear upon the numerous political and administrative, as distinct from purely military, problems requiring to be settled by inter-Allied negotiation on the spot. Since the Dominions, especially Australia, had much more at stake than in 1914-18, constitutional development might also

have been expected in the direction of improved machinery to ensure smooth co-operation among the members of the British Commonwealth, but nothing of the kind matured, and although leading Dominion Ministers sat in the War Cabinet when they happened to be in London, there was actually no counterpart to the Imperial War Cabinet of the previous war.

War needs brought about a huge expansion in Government Departments. Between April 1939, when the Ministry of Supply was instituted to procure essential raw materials and munitions, and the end of the war, the number of major departments rose from about twenty to about thirty, while the number of civil servants employed was increased by temporary recruitment to at least double. Not only so, but the prospect that the central administration might be dislocated by the weight of air attack or through invasion led to the establishment of Regional Offices, in each of which a Regional Commissioner responsible to the Home Office presided over area officials of the principal ministries concerned with local needs. These were abolished immediately after the end of the war, but the regional system will no doubt have left its mark in Whitehall. The war also made great demands on local authorities, particularly in relation to civil defence. In most cases these were met by an expansion of staff under local control, including both paid and voluntary workers, whose activities were guided by the central authorities through the customary devices such as grants-in-aid. The merging of all local fire brigades in a single National Fire Service and the joining together of the smaller borough police forces with their county force are examples of a more radical

treatment of local authorities, some of which lost control of these services permanently.

As for the private citizen, the most obvious effect of the war was to circumscribe his liberties more severely than at any previous time in modern British history. The obligation to military service rested upon all men up to the age of 50, and upon unmarried women up to the age of 30, subject only to rights of conscientious objection. The compulsion to industrial work, applied up to a higher age for both sexes, and the smaller (but likewise compulsory) claims of civil defence combined with conscription in the traditional sense to produce a situation in which, out of a population between the ages of 14 and 64 totalling 32 millions, less than one million males (including schoolboys and students) and less than nine million females (including mothers and housewives) were not in whole-time employment. The principle of conscription was also applied more readily than before to private property: land, houses, and goods were liable to be requisitioned for the public service, and while production continued in the main to be conducted under the forms of private enterprise, a cent per cent tax on profits in excess of those previously earned by the same business made it very difficult for the *entrepreneur* to make a good thing out of the war.

At the same time the private citizen's control over his government was lessened. There were no elections during the war against Germany except by-elections; and after the formation in May 1940 of the Churchill Government, in which the Labour Party joined forces with the Conservatives who were then in power, the vigour with which general war policy was still debated could not hide the fact that the Opposition



had dwindled almost to insignificance. Some pressure could still be brought to bear by persuading an M.P. to ask questions in the House of Commons, but the tendency was for Departmental Orders to increase at the expense of Statutes. Indeed, the Emergency Powers Acts (1939 and 1940) enabled the Government to take almost any action it deemed necessary by the simple issue of Defence Regulations, and under the stress of the imminence of invasion unheard-of restrictions were in fact imposed, such as the ban on access to large coastal areas, the internment without trial (under Regulation 18B) of some hundreds of British citizens whom the Home Secretary regarded as a potential threat to our security, and even the penalizing of freedom of speech, if it involved statements likely to cause alarm or despondency.

Nevertheless, if one asks what was distinctive of the private citizen's attitude to the public institutions of the war period, the answer must emphasize the unusually high degree of voluntary co-operation. The Home Guard, which came into existence as the Local Defence Volunteers to meet the danger of invasion in May 1940, and contained no conscripted members until March 1942, when the worst danger was past, is only the outstanding example of the fact that the Government built upon voluntary effort during the war, just as they had based their plans for child evacuation and air raid precautions upon it beforehand. This was a people's war, in which the people were generally eager to follow the Government's lead, expounded for the common man with all the resources of Mr. Churchill's eloquence, and accepted all kinds of regulations as being necessary in the long run for fairness and economy of effort. The fact that

this war, unlike any other in British history, commanded public support as fully in its darkest as in its brightest hours made possible a very wholesome blurring of the old distinction between "Them," who give the orders, and "Us," who have merely to obey them, which was helped by the new Service rule, under which Commissions were granted only after training in the ranks. Thus regulations were voluntarily accepted, not only for the sake of the cause but because they were seen to be the same for everyone.

This corresponded to a new outlook on the functions of the State. In his everyday life the private citizen could not help observing the levelling effects of the Government's rationing and price-control policy, which ensured an adequate supply of essential food-stuffs for all consumers, but particularly for children, while making luxuries both scarce and prohibitively dear. He thus became accustomed to the idea of a national minimum standard of life, which it was the business of State to make available to all, while many things to which wealth formerly gave unchallenged access were made available to the rich conditionally or not at all, at the State's discretion. Hence the significance of the decision to retain that very important wartime creation, the Ministry of Food. At the same time his reflections on the strategy of the war have likewise given the private citizen a new respect for the State. The issue of the war was seen to depend not so much upon individual heroism, but upon the precise execution of a global plan, allocating gigantic numbers of men and vast quantities of machinery and supplies to distant times and places. If the State could plan successfully for D-Day and VE-Day, its title to

plan for industry and society might easily outlast the logistics of war.

## §2. STATE ORGANIZATION OF INDUSTRY

During both world wars the State inevitably took a large part in the general direction of industry. It was essential on a beleaguered island that the public need should determine not only the allocation of manpower to employers, but the distribution of raw materials for manufacture, their procurement from abroad, the conditions of sale at home and overseas (to get credit), and, above all, the concentration of effort upon the procurement of a home-grown food supply of maximum size and usefulness. There was also an enormous expansion in actual State undertakings from the handful of Royal Ordnance Factories, such as the Woolwich establishment, which the State maintained in peacetime, to the vast network of national factories set up by Lloyd George as Minister of Munitions or those, still more numerous, which were organized by the Ministries of Aircraft Production and Supply to meet the emergency of 1939-45. During the second war period a further step was taken. Not content with directing private enterprise and supplementing it by its own parallel establishments, the State took powers to expropriate for inefficiency, which meant that private industrial manufacturing firms were in some cases transferred to new management on account of low output and, more frequently, that farmers lost possession of their farms because they could not or would not fulfil the cropping requirements of their County War Agricultural Committee.

In view of the cumulative effect of the two war periods, it now seems appropriate to include among British institutions the three techniques which the State is already applying to peacetime industrial organization. The first of these, made possible by the introduction of tariffs in 1932, is the Statutory Plan. In the case of agriculture, and to a much smaller extent in the cotton and coal industries, the principle has been adopted of giving the force of law to arrangements made by a majority of the producers of a given commodity, which ensure a remunerative price in the home market (hence the dependence upon a tariff) and may at the same time be expected to benefit the consumer by encouraging scientific methods of production and a regular flow of supplies. In agriculture the outstanding immediate effect was certainly to raise prices, but a summary of the powers given under the principal Act (1933) may show that the system is also designed for efficiency, towards which the Ministry of Agriculture will exert steady pressure.

Any persons who satisfy the Minister that they are substantially representative of the producers of an agricultural product in a given area (either the whole or a part of Great Britain) may submit a scheme for regulating the marketing of the product in that area. The scheme must provide for a register of producers, for a vote to be taken whether the scheme is to stay in force, for the constitution of a Board, for fines, and arbitration in cases of dispute, for establishing a fund by contributions from the producers, and for borrowing, lending, or guaranteeing money. The Board may buy, sell, advertise, transport, grade, or manufacture the product, and may organize statistics, researches, education, co-operation, or inspection. Two or more Boards which market both a primary

and a secondary product may combine to establish a Development Board with wide powers, including the reduction of productive capacity."<sup>1</sup>

The second technique is the institution of Public Utilities, organizations to which Parliament gives a monopoly in the provision of some service of wide public usefulness, exacting in return a general conformity with the plan of work embodied in its Act or Charter, and the forgoing of private profit. That is to say, whatever profit is earned, over and above provision for interest on capital (at a fixed rate), must be employed to develop or cheapen the service supplied to the public. As regards its day-to-day business the Public Utility is as independent as a private trading concern—there is normally no minister who will undertake to answer Parliamentary Questions about its actions—though the relevant Act or Charter may come up for revision after a prescribed period.

One such Public Utility Trust, to cite the full designation, was established as early as 1909, when the stock of a number of smaller companies was transferred by statute to the new Port of London Authority. This is remarkable for the device by which control is given to traders using the port, a majority of directors being elected by their votes, which are weighted according to the amount of port dues paid. Just a quarter of a century later the complexities of London traffic led to the creation of a second Utility for London in the Passenger Transport Board (L.P.T.B.), which took over at an agreed valuation the capital and plant of the existing buses, tubes, and tramways, so as to eliminate uneconomic competition. In this case the most striking feature was the provision

<sup>1</sup> *Planning*, July 31, 1934.

of appointing Trustees, including such dignitaries as the President of the Law Society and prominent civic officials, to ensure that the Board of five members should be free from any suspicion of party pressure.

The pattern of a Public Utility operating on a national scale was provided by the establishment of the Central Electricity Board, which was to build a national grid for the distribution of electric current, to secure the adoption of a standardized frequency, and to group Great Britain into ten convenient power areas. This involves a great deal of compulsory control both over existing generating stations and over the companies which distribute electricity to private consumers, and it requires a large capital, which was raised by the issue of fixed-interest bearing stock. Shareholders have no voting power, the membership of the Board consisting of seven persons nominated by the Minister of Transport for a term of years as representatives of the national interests chiefly concerned in the efficiency of the electricity supply. Once nominated, the members of the Board have virtually unfettered control of a huge staff and the most varied operations, except in so far as questions of price are settled by the Minister of Transport, acting on the expert advice of the Electricity Commissioners. Broadly speaking, the B.B.C., which was the other major Utility created in the inter-war period, follows the same pattern—a nation-wide monopoly employing an enormous technical staff, controlled by a Board of Governors whom the Crown nominates, and working for the public benefit but not under direct public supervision. The parallel is not, however, perfect. On the one hand, the B.B.C. monopoly was easier to establish because broadcasting was too new for vested private

interests to have acquired much strength; on the other hand, it is a monopoly which attracts the maximum of public attention, so that the Postmaster-General (who collects the licence revenue) or the Minister of Information (who had a special responsibility for all news services in wartime) has in practice found it impossible to divest himself of powers of indirect control exercised in accordance with demands expressed about particular issues in Parliament.

The outright nationalization of industries, which constitutes the third technique, is still in the experimental stage. As we have already seen (Chapter IX), local authorities have for many years conducted enterprises of their own in certain fields, such as the provision of water and light and local transport, from which they excluded private competitors. Yet the Post Office, which added a savings bank to its activities in the 'seventies and bought up the private telephone companies about thirty years later, long continued as the only State enterprise on the national scale. Even the railways, which have been nationalized in many countries, after being entirely absorbed by the British State in wartime, were restored to private ownership in 1921. Up to the outbreak of the second world war there had been much discussion, but action in only two instances: an Act of 1934 provided for the nationalization of the oil industry in the event of large-scale deposits being discovered and worked in Britain, and the unification of coal-mining royalties in 1938 provided the first step towards State ownership of the coal mines, where Royal Commissions had more than once pronounced adversely on the existing system. Nationalization figures prominently in the programme of the Labour Government which came into power in

1945. A token Bill was at once introduced to nationalize the Bank of England, which involved mainly formal changes in the method of appointment of Directors, since the Bank has for many years been guided by the Treasury far more than by private City interests. The nationalization of the coal mines was to follow next, the former owners being compensated for the transfer of their property to the control of an official Coal Board, which will dispose of a large sum of new capital with which to achieve the complete modernization of the industry, admitted by all parties to be long overdue. The skill with which the new officials are seen to handle this problem, and the extent to which they succeed in getting the co-operation of the workers in the industry, will provide the first incontrovertible evidence as to the efficiency or otherwise of the new system. But in the meantime it is to be extended to the derived fuels and to every form of public transport.

### §3. THE SOCIAL SERVICE STATE

While nationalization of industry remains a party issue, the development of the social services is now accepted almost universally as one of the main ends which modern British institutions exist to serve. Take the case of the planned comprehensive State medical service: Conservative and Labour opinion may still differ as to the kind of machinery to be employed and as to its precise scope, but not as to its general desirability. Yet only fifty years ago neither the convenient phrase "social service," nor the wide range of positive social functions for which it stands had come into existence. True that the State already undertook



some duties, such as the provision of street cleaning and refuse disposal, the minimum education of poor children, and the minimum maintenance of the destitute, which experience had shown to be absolutely necessary if urban industrial life was to continue; but it was generally assumed that whatever could be provided by private enterprise should be so provided, and that the only proper criterion of any unavoidable free provision was its cheapness. The change which began with the Liberal Government of 1905 has been a gradual one in the direction of assuming, not only that an increase in the social activities of the State is natural and healthy, but that public money derived from heavier taxation may properly be used to provide any of the conditions of the good life from the cradle to the grave, or, to speak more exactly, from pre-natal clinics to funeral benefits, and that such services are not to be regarded as a charity doled out by the rich to the poor but as the birthright of every citizen. Before the outbreak of the second world war public expenditure on the main social services, reckoned per head of population, had increased tenfold in less than forty years. Since then such new factors as the Blitz, which reduced every citizen to a potential ward of the State, since any householder might find himself homeless without warning, have made State-provided services acceptable in ever wider circles of the population.

That the Social Service State is rapidly taking shape can be seen most clearly if we recapitulate the main forms of social service already provided in this country, ignoring the distinction between central and local government activities which has been made elsewhere in this book. They come under no less than

five heads. First, the obviously necessary environmental services—sewage pipes and water mains which lie at the base (in all senses) of the modern town. Second, poor relief in its various forms, which was for centuries the one narrow type of social service known to legislators and administrators, but which is now being steadily superseded by a third group of services, namely the compulsory schemes of social insurance, where State and employer join with the employee to make provision in advance for the incidence of sickness, loss of employment, and old age. Fourth, there are the great constructive community services, ranging from employment exchanges and the new health centres to the whole network of State-owned cultural and educational institutions (schools, libraries, technical colleges, etc.), which put specialized skill and equipment freely at the citizen's disposal. The last and most recently developed service consists in the use of subsidies to keep down the cost of essential or socially desirable purchases, such as better houses in replacement of slums or plentiful milk for children: this was extended during the war to govern the general selling price of other primary foodstuffs, including bread.

It can scarcely be doubted that the first few years after the war will witness a further all-round development in the social services. In particular, the proposals known as the Beveridge Plan, to which the Government gave wide publicity during the war to show that the Social Service State was among the objects for which we were fighting, have already borne fruit in the establishment of a new Ministry of National Insurance. This Ministry will eventually take over the Public Assistance work at present done by local

authorities, as well as all existing National Insurance Schemes, but the future scope of social insurance is far wider and will require much special legislation. In brief, the intention is to insure the entire population, whatever their age, income, and occupation, against unemployment, sickness, and old age by means of their own contributions (except in the case of children and the aged), contributions by employers (except in the case of persons not employed by others), and contributions by the State. In addition, there will be family allowances towards the cost of maintenance of all children, except the first in each family; insurance against industrial injuries (on the contributory basis outlined above), to cover all kinds of accidents at work, which have hitherto been covered only partially and with difficulty by the Workmen's Compensation Acts; and larger provision for widows and orphans.

There is also to be a free Health Service, designed to give every citizen the same chance of good health as has been enjoyed by the wealthiest classes in the past. The biggest change is the nationalisation of the hospitals, which will be transferred from the local authorities or voluntary committees to the control of Regional Hospital Boards under the Ministry of Health. Then the system of free doctoring, first introduced by the Insurance Act of 1911, will be greatly extended and developed, so that everyone may have access to free medical and dental treatment of all kinds, though practitioners will be allowed to take fee-paying patients in addition, if they can find them, and will have their professional independence further safeguarded by the fact that the local authorities choose only one-third of the members of the Executive Councils by which doctors will be controlled. All

other Health Service requirements—clinics, health visiting, home nursing, arrangements for maternity and child welfare, ambulance services, etc.—will be provided by the local authorities (Health Committees of County and County Borough Councils), with the local Health Centres as their headquarters.

If the balance of trade and other economic factors allow existing official projects to be carried out in full, Britain will shortly have doubled, and will eventually treble, her expenditure on Social Services, as compared with 1938. For a large and increasing proportion of our people, therefore, British institutions are likely to be associated first and foremost with the advantages of the Social Service State. But it would be wrong to suppose that those advantages, like certain others that we enjoy, are in any sense peculiar to the democracies. On the contrary, undemocratic forms of government, desiring to strengthen their hold over the individual and to make him look up to the State as the source of every blessing, have often gone still further in this direction—for example, the organization of leisure in the Nazi *Kraft durch Freude* or the Fascist *Dopo Lavoro*—though their final aim was not the enrichment of the life led by the individual as a free human being. Are we sure that that is still our own aim? Thus a new problem posed by modern British institutions is this: can the extension of State activity further and further into the social and economic field be reconciled with the need for each citizen to feel that he is a free agent, part master of, and part co-operator with, the State, which is essential to the full practice of democratic government?

## CO-OPERATION WITH THE STATE

## §I. THE NEED FOR KNOWLEDGE

WE have been studying the organization of the State to which we belong, the United Kingdom, and of its two extensions, inwards in local government institutions and outwards in the Empire. We have been studying it as something which we as voting citizens in a sense control, but which functions as a vast machine, conferring upon us such benefits as social services but seeming to call (in normal times) for little effort on our part. Nevertheless, all history shows that a free State, such as ours, can never work smoothly without the voluntary co-operation of its citizens. If they become ignorant, slothful, and intolerant the fact that they continue to exercise their vote or fulfil their jury-service will not save the State from being transformed into an unfree type of community. That is precisely what let in the Nazis in Italy and Germany: the majority did not care deeply about the life of the State, the minority were interested in it as a means of venting private hatreds. Thus the maintenance of freedom implies the performance of voluntary obligations.

The first and one of the most difficult of these is the duty of acquiring accurate information. Fifty years ago, when political issues in Britain were fewer and simpler, the voting public was tolerably well-informed about them. Entertainments being smaller and less alluring, serious lectures and popular debates between

champions of rival views (such as socialist v. anti-socialist) used to attract large audiences. Moreover, local newspapers then carried as much weight in political matters (taken collectively, that is) as the London dailies, which had two good results—it meant that local politics received more publicity, and in national affairs it meant that each editorial office up and down the country expressed more or less independent views.

Unfortunately, a silent revolution has gradually established a new type of paper, of which a great statesman of the 'nineties rather cheaply said that it appeared to be written by office-boys for office-boys. At the present moment three or four of the London penny papers have net sales of such magnitude that among them they practically swamp the country. Though their politics vary, each of them has the same three pernicious features. The prominence assigned to any news-item depends, not on its genuine importance, but on the extent to which it will feed a cheap and vulgar excitement, curiosity, or amusement. The records of parliamentary debates, for instance, have been pushed very much into the background, while the headlines seek to arouse our interest in "mysteries," "tragedies," and "dramas"—fresh every day. Secondly, the real news is garbled. Special correspondents are sent to foreign countries and are compelled to report, not what they see, but what the management of the paper wished them to see. The speeches of important statesmen are even chopped about with the deliberate intention of making them appear to say the very opposite of what they really said. Third—and most detrimental of all to the public interest—these papers do not depend for their gigantic sales upon their

ability to live up to even the average man's notions of what constitutes good sense (or good taste) in a newspaper. By offering extraneous advantages, such as Free Accident Insurance, the proprietor forces his way into the poorer home, where his views may at first be ridiculed: but the mud slung daily slowly sticks. These devices were dispensed with during the war years, when shortage of paper made competition for readers superfluous, but it is to be feared that in normal times they will quickly reappear.

Nevertheless, there are other cases in which special care is taken to preserve the purity of a news-service. *The Times* has long enjoyed a high reputation both for foreign and home news reports: and a small committee was established by a recent owner of this paper, consisting of such dignitaries as the Speaker and the Archbishop of Canterbury, who have a veto on any further change of ownership which might render the paper less sane and well balanced. Its politics are conservative in tone, but *The Times* generally supports the government of the day and is scrupulously careful to give space to the speeches and activities of parties and persons of whose views it disapproves. Still greater efforts are made by the B.B.C., which incidentally has the unique advantage that the search for truth is not liable to be deflected by the need to consider the wishes of advertisers, on whom all newspapers, even *The Times*, depend for their very existence. Its Governors, though nominated by the Ministry and subject (as we have seen) to pressure by Parliament, represent different views and have a fixed period of office. Under their auspices the news bulletins remain studiously moderate, and are generally as well informed as they are well balanced. The political talks—

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—very important items in a General Election nowadays—are also shared out reasonably among the responsible party-leaders, though it is said that very small minorities, especially the Communist Party, find it difficult to get a hearing.

In general, though, it must be admitted that even the better newspapers (and certainly the cinema news-reels) are inevitably deformed by political prejudices. What then? The average citizen has no other source from which to derive his knowledge of the facts on which his judgments must be based: non-party publications have never lasted long, and it costs both time and money to make use of fact-finding organizations like the Royal Institute of International Affairs or P.E.P. (Political and Economic Planning). But the conclusion is, not that we should be resigned to our fate, but that we should take pains to study both sides of a party question—the *Herald* as well as the *Express*, and the *Telegraph* as a corrective to the *Manchester Guardian*. As for the ascertainment of facts in general (for example, in foreign affairs) the cultivation of a strong critical faculty will carry the reader far.

### §2. THE NEED FOR ACTIVITY

To pay one's rates and taxes without mutiny, to register an intelligent vote at parliamentary and municipal elections, perhaps to serve attentively upon a jury—in a sense that is all which the British State demands of its citizens, at least in peacetime. Yet there are many other social duties which urgently require to be performed. If some of these are left undone, the State will cease to satisfy the elementary needs of some citizens, whereupon a catastrophic



change becomes inevitable; while the omission of others, though causing no sudden catastrophe, means that the community as a whole will be a poorer and feebler thing.

A few of these duties come under the direct auspices of the State—the often thankless task of a Justice of the Peace, for instance; the maintenance of law and order by Special Constables, who are in fact enrolled voluntarily, though any man may legally be sworn in willy-nilly at a crisis; or service in the J.T.C. or A.T.C. Membership of a borough or county council may also be a burden conscientiously borne rather than an aspiration gratified, for it eats into leisure and is entirely unpaid. With this we may group the work of innumerable voluntary committees, established in connection with the social reforms of the last forty years—committees which estimate the exact needs of unemployed persons, suggest suitable careers for children leaving school, visit prisons, asylums, and orphanages, and in a hundred different ways mitigate the rigours of the law by establishing personal contacts and using common sense.

Among those social duties, the organization of which requires to be kept entirely clear of the State, we may surely reckon Charity. It is difficult to conceive of a community where there are no cases of misfortune and hardship deserving sympathetic treatment, which the State itself administers at the risk of calling into existence a large class of undeserving idlers. Voluntary charity can discriminate better. Such societies as the N.S.P.C.C. and the R.S.P.C.A. have wrought wonders in raising the general standard of humane conduct: about 1900 an elderly observer declared that the greatest contrast with the London

of his youth was that the cats, instead of running away from a stranger in the expectation of stonir g, came up to be stroked! But from the multitude of examples, which will occur to any reader, we will pick out only the oldest and the newest. The oldest large-scale charity is the voluntary hospitals, the most famous of which, such as "Bart's" and "Guy's," are in London. In some cases they have ministered to the sick poor since the later Middle Ages, and although their days of independence are now numbered, it should not be forgotten that King Edward's Hospital Fund, with its annual disbursements of nearly half a million sterling, made the London voluntary hospitals at least models of efficiency and adaptability. For the position of the newest large-scale charity there may be several competitors; but the National Council of Social Service, founded in 1919, stands out as the most comprehensive. This was designed to act primarily as a connecting-link between all kinds of local social service agencies, but it has specialized in the provision of village halls and community centres for housing estates, in the running of occupational clubs for the unemployed (to which the State contributed £150,000 yearly before the war), and in such wartime innovations as the Citizens' Advice Bureau.

One of the most important tasks for voluntary agencies is the work of providing the modern town-dweller with adequate means of recreation. Here Britain has made three or four big contributions to what is now a world problem. First, university settlements as residential centres of culture among the poor—these began with the foundation of Toynbee Hall in Whitechapel, over half a century ago. Second, the University Extension lectures and their more

recent and more democratic offshoot, the Workers' Educational Association, which between them have done much to make all branches of university study available to anyone who cares to spend his leisure attending classes: these are now heavily subsidized by the State, which pays most of the tutors. So much for indoor occupations: for out of doors England has invented the boy scout (and girl guide) movement. Started by (Lord) Baden-Powell in 1903, with the help of innumerable unpaid and overworked scoutmasters and guide leaders, scouting and guiding have provided the best of recreations for the youth of many lands, and especially for those to whom it means an escape from the monotony of the streets. Lastly, we must just mention the National Trust, a society which collects subscriptions for the purchase of beauty-spots that are in danger of being built over, so that they may be enjoyed in perpetuity by holiday-makers who convey themselves—or are conveyed by such organizations as the Children's Country Holiday Fund, another voluntary enterprise—to find recreation in the English countryside.

The value of these voluntary societies, and the duty of supporting them so far as we are able, is self-evident. They strengthen the State by enriching the lives of individuals, mitigating hardships, and linking together widely separated social classes. But there are two other types of society, of which it is sometimes held that they weaken the State by creating rival loyalties in the hearts of its citizens. So much so, indeed, that under totalitarian governments such societies go in danger of actual persecution.

Trade unions in England have had a long and eventful history, but since 1824 the right of workmen

to form a union which shall represent them in negotiations with their employers about wages and hours has been legally recognized, and since 1906 the funds of the unions have actually enjoyed fuller legal protection than those of other corporations. Their function is economic—to organize collective bargaining in place of individual bargains between master and man (in which the man comes off worst), and so to improve or at least maintain the standard of living, first, of the workers in a particular trade, second, of the working class as a whole. But suppose the most effective method of achieving this end is by a strike calculated to disorganize the life of the whole country and so indirectly put pressure upon Government to force the employers to give in, not at the behest of the electors but at that of the trade unionists? This was the difficult issue raised by the General Strike of 1926.

The membership of the trade unions is at present about 6,500,000: a still larger society is that constituted by the churches. They differ widely in form. The Church of England, legally governed by Elizabethan and Caroline Acts of Parliament, which Parliament alone is competent to alter, is governed in all matters of day-to-day administration by its clergy, meeting in two Houses of Convocation, and by the third House of Laity. The three houses together constitute the Church Assembly. In Scotland the parallel institution is the General Assembly of the (Presbyterian) Church, which is more democratic in tone and contains a larger element of laymen, but the fact that its annual session is opened by a Lord High Commissioner, representing the King, may serve to remind us that this too is an established church. The Nonconformist or Free Churches have their separate governing

bodies (the Methodist Conference, the Congregational Union, etc.) and are jointly represented by the Free Church Council. In England they number perhaps 2,500,000 in comparison with about 3,500,000 *active* members of the Established Church; in Wales, they predominate. The Roman Catholic Church, with a (British) membership a little smaller than that of the Protestant Nonconformist Connexions, is far more closely united in its strict obedience to the Pope and the hierarchy of Catholic clergy.

But the function of all three types of Church is equally a spiritual one—the welfare of the souls of professing Christians. What, then, if the State orders the performance of a duty which the Church believes to be dangerous to the soul's welfare? This is another difficult issue, which was clearly raised by the enforcement of the Military Service Acts in the years 1916–18, when many members of the Society of Friends (Quakers) and a few of other religious denominations suffered imprisonment because they held fighting in the war to be a sin. Exemption from military service was granted much more readily in the second world war, but there were still a few cases of imprisonment when the authorities doubted the genuineness of a conscientious objection.

No cut-and-dried solution exists for problems like these. But two considerations may perhaps be pointed out. The first is that the trade unionist as such may be, the member of a Christian church almost must be, more valuable as a citizen than he would be if these organizations did not exist. The average trade unionist is a far nobler specimen of humanity than the down-trodden industrial serf of 1800; the Christian is taught to perform, and fairly often does perform, the

works of charity. The other point is simply this: a clash of loyalties is always distressing and may be disastrous to individual or community, but without the freedom which makes that clash at any moment possible no State however strong can provide a home for free citizens.

### §3. THE NEED FOR TOLERATION

What we have been saying about churches and trade unions may remind us that persecution in the interests of a dominant class was formerly a regular function of the State. Little more than a hundred years ago trade unionists were persecuted in the interests of employers, while Catholics and Protestant Nonconformists were subjected to various mortifying disabilities, involving exclusion from the ancient universities and from any full participation in political life, in the supposed interests of the Church of England. Besides these special cases of intolerance, there was once the more general principle of discouraging all criticism of the Government, emancipation from which provides the theme for a large part of English constitutional history, especially on the legal side. Since 1679, when the Habeas Corpus writ was made an effective safeguard against arbitrary imprisonment by Government orders, successive battles have been waged over such matters as the right to petition the Crown, freedom from arbitrarily issued warrants for search and arrest, the publication of parliamentary debates, and the all-important general liberty to criticize all Government actions without let or hindrance.

Writing half a century ago, the late Professor Dicey

believed that in England the law afforded complete protection for the right to personal liberty, the right to freedom of discussion, and the right of public meeting, rights which were further safeguarded by the ability of a parliamentary minority, however small, to make itself effectively heard under the liberal Standing Orders of the House of Commons. Under those circumstances the virtue of toleration might seem to need no preaching. During the two wars, however, many of these rights were inevitably suspended, as pacifist orators found to their cost, nor were they in all cases restored with alacrity on the return of peace. The Emergency Powers Act, a new Sedition Act, and the wide powers conferred on the police by new Traffic Regulations—any politically inconvenient open-air meeting is liable nowadays to summary dispersal as a hindrance to traffic—have, indeed, given the Government such authority as would enable it, in a crisis, to suppress publications, ban meetings, and even arrest individuals against whom no proper charge could be preferred. It is significant that the prohibition of political uniforms by Parliament in 1934 was coupled with a less desirable grant of authority for the police to forbid processions.

*C'est le premier pas qui coûte.* A Communist procession of unemployed is broken up by the police—some leaflets are destroyed—the leaders receive a heavy sentence, consonant with the anti-communist feelings of the magistrate or jury—Parliament is far too busy to discuss the incident, in which only a tiny minority are interested—and the newspapers, with an eye to their advertisement revenue, make little of it. Few of us perhaps sympathize with Communist aims, and still fewer with Communist methods, but the

suppression of liberty always begins with an unpopular minority: it does not end there. Thus it may be said that a fanatical insistence on the toleration of opinions which we consider absurd or even pernicious, a fanaticism which was certainly characteristic of Britain in former days, is a duty incumbent upon us as British citizens now.

Toleration, finally, is needed in quite another direction. Parliament may from time to time enact laws of which we violently disapprove, either because they conflict with some venerable tradition (Church Disestablishment would be a case in point) or, more probably, because they appear to benefit one section of the community at the expense of others (for example, a capital levy). When such measures are still in the air or are being debated, every citizen who wishes is entitled to oppose them vigorously by his speeches, his pen, and his vote. But once Parliament has passed its verdict, it becomes his duty to tolerate what he may detest. Resistance to statute law, whether by force of arms, or by organizing the flight of capital from the country (the rich man's weapon), or by maintaining a purely political strike (the weapon of the poor), is the ultimate offence against the democratic spirit. Nor will the good citizen require of his party, if it subsequently succeeds in gaining office by the orthodox method of the ballot box, a complete reversal of the offending policy or Act, without regard to the injury which national interests may sustain as the result of over-sudden change.

A habit of toleration, based on the firm belief that our common interests as British men and women must always be greater than the things which divide us; readiness to devote our time or wealth to voluntary



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societies, promoting in their several ways the common good; and a sustained and rational interest in the political problems upon which a democracy is called to decide—these are some of the qualities which the future of the British Commonwealth requires of us.

## APPENDIX

### Extract from the Charter of the United Nations

#### *Article 1.*

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of people, and to take other appropriate measures to strengthen universal peace;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

#### *Article 2.*

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

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3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures.

## EXERCISES

N.B.—The Exercises presuppose the use of a library, which contains standard works of reference such as the following:—

- Encyclopædia Britannica* (14th edition).  
*The Statesman's Year Book*.  
*Whitaker's Almanack*.  
W. Anson: *Law and Custom of the Constitution* (new edition, 1922-32, 3 vols.).  
A. V. Dicey: *Law of the Constitution* (8th edition).  
W. I. Jennings: *Cabinet Government* (1936) and *Parliament* (1939).  
A. L. Lowell: *The Government of England* (2 vols.).  
J. A. R. Marriott: *Mechanism of the Modern State* (2 vols.).  
T. Erskine May: *Constitutional History of England* (edited by Francis Holland, 1912, 3 vols.).  
C. G. Robertson: *Select Statutes, Cases, and Documents*.

### CHAPTER I

1. Distinguish the practical from the historical justification for any ceremonial usages retained in your town or neighbourhood (e.g. the Mayor and Corporation attending Church in state).
2. How would you justify the expense of a Coronation?
3. What is implied by the phrase, "a free-born Englishman"?
4. Construct a list of the remaining European democracies.
5. How does the Rule of Law benefit the man in the street?
6. Show how the prolongation of the 1935 Parliament until 1945 illustrates the doctrine of the Sovereignty of Parliament.

### CHAPTER II

7. Tabulate the changes made by the Parliamentary Reform Acts (1832-1928).
8. *Vota numerantur non ponderantur*—is this a fair criticism of the results of Parliamentary Reform?
9. In what ways is the conduct of elections still open to abuse?
10. In what circumstances is a by-election held? Give recent examples.
11. Give some account of the Caucus. (See any *Life of Joseph Chamberlain*.)
12. What is to be said for and against Burke's idea of a Member's obligations to his constituents.
13. Discuss the view that geographical representation is an anachronism i.e. M.P.'s should be chosen by industries, etc.).

# EXERCISES

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## CHAPTER III

14. Trace six main stages in the growth of the power of Parliament.
15. What is to be said for and against the abolition of the House of Lords?
16. Is it true to assert that the Parliament Act set up a "written constitution"?
17. On what grounds ought M.P.'s to criticize public expenditure?
18. How far does the public expenditure of 1935-6 differ, in its distribution among different items, from the expenditure of fifty years before?
19. Make a careful list of the stages involved in the enactment of a Public Bill.
20. Distinguish, with examples, between Public, Private, and Private Members' Bills.
21. Explain the value of Questions in the House.
22. Is their success in the House of Commons a good criterion of likely Cabinet Ministers?

## CHAPTER IV

23. Trace the rise and decline of the Privy Council.
24. How far can the Cabinet and a Board of Directors be usefully compared?
25. Explain the meaning of Collective Responsibility.
26. Enumerate the functions of a Prime Minister: in what respects does his position resemble that of a Dictator?
27. Arrange the various duties of a Cabinet Minister in order of importance.
28. "A strong Opposition makes a strong Government." Discuss.

## CHAPTER V

29. Quote examples from Queen Victoria's life to illustrate (a) her devotion to the Empire, (b) her detestation of democracy.
30. In what ways does the British Monarchy exert an influence upon the man in the street?
31. Explain carefully the use and abuse of the King's powers with regard to the dissolution of Parliament.
32. What constitutional decisions was King George V called upon to make in relation to the first Labour Government?
33. What is the importance of the method of appointment of Governors-General?
34. What is the meaning of the maxim, "The King can do no wrong"?
35. Define, and illustrate the uses of, the royal prerogative.

## CHAPTER VI

36. Trace the origin and development of the Courts of Exchequer, King's Bench, Common Pleas, and Chancery. (Consult any *Constitutional History*.)
37. Construct a diagram to illustrate the hierarchy of courts at the present day.

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38. What are the distinctive merits and demerits of the jury system?
39. Discuss the case for and against the retention of amateur magistrates.
40. In what respects is the poor man at a disadvantage in the law courts?
41. Define Administrative Law.
42. In what circumstances is an honest departmental official likely to give a bad decision?

### CHAPTER VII

43. What is the constitutional importance of the Army (Annual) Act?
44. What new problems of democratic control are raised by the existence of a Royal Air Force?
45. *Silent inter arma leges*—does this summarize the British doctrine with regard to Martial Law?
46. Write a short history of the Treasury.
47. Give some account of the work of any one Department, other than the Foreign and Home Offices. (Volumes in the *Whitehall Series* would be useful for these two questions.)
48. Trace the growth of the National Debt.
49. "People never notice indirect taxes"—is this an argument for or against them?
50. What constitutes "punitive taxation"?

### CHAPTER VIII

51. Outline the main stages in the constitutional development of the neighbourhood in which you live.
52. How do you account for the fact that the reformed town councils were established two generations earlier than county councils?
53. Make a diagram to illustrate the relationship between different kinds of local authority.
54. Explain the statement that all local authorities are subordinate authorities.
55. Officials employed by local councils are supposed to administer but not to originate policy: is the distinction practicable?
56. How far is your own local council run on a strictly party basis?

### CHAPTER IX

57. Argue the case for and against "keeping down the rates."
58. Account for the persistent refusal of Parliament to let other boroughs imitate Birmingham's highly successful Municipal Bank.
59. "There is a free municipal art gallery—why not a free municipal cinema?" Discuss.
60. What are the main difficulties of rehousing?
61. Trace the history of Poor Law administration from the Guardians to the Assistance Board.
62. To what extent does the abolition of the name "pauper" mark a real change of attitude?
63. Draw a diagram to illustrate the "educational ladder" as it exists to-day.

# EXERCISES

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## CHAPTER X

64. In what ways does the L.C.C. differ organically from other local authorities?

65. An accident occurs on London Bridge—how many different local authorities might be involved?

66. In what respects may (a) education and (b) health services be expected to benefit from the size of the L.C.C.?

67. Give arguments for and against the present constitution of the Metropolitan Police.

## CHAPTER XI

68. Trace the growth of the demand for the higher education of women in its relation to the franchise movement.

69. Women have never played a prominent part in trade unionism: does this suggest some reasons for the dearth of women M.P.'s?

70. Is the presence of women on juries likely to produce on an average better verdicts?

71. On which committees of a local council would you expect women members to have most influence?

## CHAPTER XII

72. Compare the circumstances in which the Acts of Union with Scotland and Ireland were passed: what light do they shed on the respective sequels?

73. Make a list of the differences between the Irish Free State Constitution of 1937 and the Constitution of Canada, on which it was originally modelled.

74. Distinguish the federal elements in the Dominion Constitutions.

75. Illustrate from the case of New Zealand the political significance of Empire trade.

76. Is there any "right of secession" in the British Commonwealth?

77. Give some account of the provisions of the Government of India Act, 1935.

78. "India for the Indians"—is there any answer to this claim?

79. What advantages does Great Britain derive from the possession of tropical colonies?

80. Enumerate the different forms of government, established under British rule, which would be met with on a journey from Cairo to Capetown.

81. What do you understand by trusteeship in relation to the government of backward peoples?

## CHAPTER XIII

82. Compare the main provisions of the League Covenant and the United Nations Charter.

83. Account for the early successes and ultimate failure of the League of Nations.

84. Describe the main activities of the I.L.O.

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85. Show how the events of the second world war led to the organization of the United Nations and its Charter.

86. "Realistic but not democratic"—is this a fair comment on the Security Council provided by the United Nations Charter?

87. Enumerate the main functions of the Economic and Social Council in order of importance.

88. What practical differences result from the theoretical separation between the foreign policies of the United Kingdom and the Dominions?

89. What constitutes a World Power?

### CHAPTER XIV

90. Make a list of new Government Departments formed to meet the needs of the war of 1939-45. Which have become permanent, and why?

91. Account for the readiness with which private citizens accepted restrictions upon their liberties during the recent war.

92. Explain the main features of a Public Utility and show to what types of undertaking the system is properly applicable.

93. What are the main arguments for and against the nationalization of major industries?

94. Trace the main stages in the growth of Social Services in Britain.

95. Outline the Beveridge Plan and compare its provisions with the National Insurance legislation of 1946.

(*Keesing's Contemporary Archives* would be particularly helpful for questions 82-95.)

### CHAPTER XV

96. Make a list of daily newspapers with which you are familiar, classifying them by their contents.

97. Show how the need of advertisement revenue leads to the misrepresentation of news.

98. Ought hospitals to be entirely a State Service?

99. Enumerate the voluntary agencies which exist for the benefit of poor children.

100. Estimate the value of trade unions to the community.

101. Trace the history of the removal of religious disabilities during the nineteenth century.

102. "All government is based upon compromise and barter" (Burke). In what sense is this true?

103. Is the Englishman of to-day more or less free than his grandfather in relation to the State? (Read J. S. Mill *On Liberty*.)



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